PHONORECORDS IV

Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
Library of Congress
Washington, D.C.

In re Determination of Royalty Rates and Terms for Making and Distributing Phonorecords (Phonorecords IV)	Docket No. 21-CRB-0001-PR (2023–2027)

WRITTEN DIRECT STATEMENT AND TESTIMONY OF GEORGE D. JOHNSON (GEO) a Pro Se PARTICIPANT

Volume 2

Exhibits

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George D. Johnson (GEO), an individual songwriter and music publisher d.b.a. George Johnson Music Publishing (GJMP) (formerly BMI)

Wednesday, October 13, 2021

Mechanical License Royalty Rates

DATE	RATE	AUTHORITY
1909-1977	2 cents	Copyright Act of 1909
January 1, 1978	2.75 cents or 0.5 cent per minute of playing time or fraction thereof, whichever is greater	Copyright Act of 1976
January 1, 1981	4 cents or 0.75 cent per minute of playing time or fraction thereof, whichever is greater	1980 Mechanical Rate Adjustment Proceeding
January 1, 1983	4.25 cents or 0.8 cent per minute of playing time or fraction thereof, whichever is greater	1980 Mechanical Rate Adjustment Proceeding
July 1, 1984	4.5 cents or 0.85 cent per minute of playing time or fraction thereof, whichever is greater	1980 Mechanical Rate Adjustment Proceeding
January 1, 1986	5 cents or 0.95 cent per minute of playing time or fraction thereof, whichever is greater	1980 Mechanical Rate Adjustment Proceeding
January 1, 1988 to December 31, 1989	5.25 cents or 1 cent per minute of playing time or fraction thereof, whichever is greater	17 U.S.C. 801 (b)(1) and 804. Based upon the change in the Consumer Price Index from Dec. 1985 to Sept. 1987
January 1, 1990 to December 31, 1991	5.7 cents or 1.1 cents per minute of playing time or fraction thereof, whichever is greater	Consumer Price Index from Sept. 1987 to Sept. 1989
January 1, 1992 to December 31, 1993	6.25 cents or 1.2 cents per minute of playing time or fraction thereof, whichever is greater	Consumer Price Index from Sept. 1989 to Sept. 1991

GEO 1

GEO 2

January 1, 1994 to December 31, 1995	6.60 cents or 1.25 cents per minute of playing time or fraction thereof, whichever is greater	Consumer Price Index from Sept. 1991 to Sept. 1993
January 1, 1996 to December 31, 1997	6.95 cents or 1.3 cents per minute of playing time or fraction thereof, whichever is greater	Consumer Price Index from Sept. 1993 to Sept. 1995
January 1, 1998 to December 31, 1999	7.1 cents or 1.35 cents per minute of playing time or fraction thereof, whichever is greater	1997 Mechanical Rate Adjustment Proceeding
January 1, 2000 to December 31, 2001	7.55 cents or 1.45 cents per minute of playing time or fraction thereof, whichever is greater	1997 Mechanical Rate Adjustment Proceeding
January 1, 2002 to December 31, 2003	8.0 cents or 1.55 cents per minute of playing time or fraction thereof, whichever is greater	1997 Mechanical Rate Adjustment Proceeding
January 1, 2004 to December 31, 2005	8.5 cents or 1.65 cents per minute of playing time or fraction thereof, whichever is greater	1997 Mechanical Rate Adjustment Proceeding
January 1, 2006 to February 28, 2009	9.1 cents or 1.75 cents per minute of playing time or fraction thereof, whichever is greater	1997 Mechanical Rate Adjustment Proceeding

GEO 3

Mechanical License Royalty Rates

68 years frozen

DATE	RATE	AUTHORITY
1909-1977	2 cents	Copyright Act of 1909
January 1, 1978	2.75 cents or 0.5 cent per minute of playing time or fraction thereof, whichever is greater	Copyright Act of 1976
January 1, 1981	4 cents or 0.75 cent per minute of playing time or fraction thereof, whichever is greater	1980 Mechanical Rate Adjustment Proceeding
January 1, 1983	4.25 cents or 0.8 cent per minute of playing time or fraction thereof, whichever is greater	1980 Mechanical Rate Adjustment Proceeding
July 1, 1984	4.5 cents or 0.85 cent per minute of playing time or fraction thereof, whichever is greater	1980 Mechanical Rate Adjustment Proceeding
January 1, 1986	5 cents or 0.95 cent per minute of playing time or fraction thereof, whichever is greater	1980 Mechanical Rate Adjustment Proceeding
January 1, 1988 to December 31, 1989	5.25 cents or 1 cent per minute of playing time or fraction thereof, whichever is greater	17 U.S.C. 801 (b)(1) and 804. Based upon the change in the Consumer Price Index from Dec. 1985 to Sept. 1987
January 1, 1990 to December 31, 1991	5.7 cents or 1.1 cents per minute of playing time or fraction thereof, whichever is greater	Consumer Price Index from Sept. 1987 to Sept. 1989
January 1, 1992 to December 31, 1993	6.25 cents or 1.2 cents per minute of playing time or fraction thereof, whichever is greater	Consumer Price Index from Sept. 1989 to Sept. 1991
January 1, 1994 to December 31, 1995	6.60 cents or 1.25 cents per minute of playing time or fraction thereof, whichever is greater	Consumer Price Index from Sept. 1991 to Sept. 1993
January 1, 1996 to December 31, 1997	6.95 cents or 1.3 cents per minute of playing time or fraction thereof, whichever is greater	Consumer Price Index from Sept. 1993 to Sept. 1995
January 1, 1998 to December 31, 1999	7.1 cents or 1.35 cents per minute of playing time or fraction thereof, whichever is greater	1997 Mechanical Rate Adjustment Proceeding
January 1, 2000 to December 31, 2001	7.55 cents or 1.45 cents per minute of playing time or fraction thereof, whichever is greater	1997 Mechanical Rate Adjustment Proceeding
January 1, 2002 to December 31, 2003	8.0 cents or 1.55 cents per minute of playing time or fraction thereof, whichever is greater	1997 Mechanical Rate Adjustment Proceeding
January 1, 2004 to December 31, 2005	8.5 cents or 1.65 cents per minute of playing time or fraction thereof, whichever is greater	1997 Mechanical Rate Adjustment Proceeding
January 1, 2006 to February 28, 2009	9.1 cents or 1.75 cents per minute of playing time or fraction thereof, whichever is greater	1997 Mechanical Rate Adjustment Proceeding

15 years frozen

M-200A REV: 09/2018 PRINT: 01/2010—2,500 Printed on recycled paper

GEO 4

Frozen Mechanicals

October 7, 2021

Why Songwriters Should Care About Inflation Protection for Mechanical Licenses

In a word: Stagflation. Maybe. In more words, classic stagflation occurs when supply side shocks lead to the costs of goods increasing while the real economy declines. We certainly have had and continue to have supply side shocks and it's hard to tell what the real economy is doing because of distortion. Due to the COVID pandemic, the global economy has been hit with a cascading series of supply side shocks. For example, one shock is due to supply chain disruptions which look something like this:

If you've ever been on one of the very large cargo ships, you will know that is a big mofo. (When a sailor looks at all those elephants churning up the water, you can't rule out a collision which could have really big problems depending

GEO 4

on where and how bad that collision is.)

There currently are something like 500,000 shipping containers sitting on ships off of the Port of Los Angeles that can't unload. That means someone has ordered the goods in the containers, perhaps paid in advance all or part of the cost of those good, but can't get the goods to sell. And that's just Los Angeles. That's also called a supply side shock.

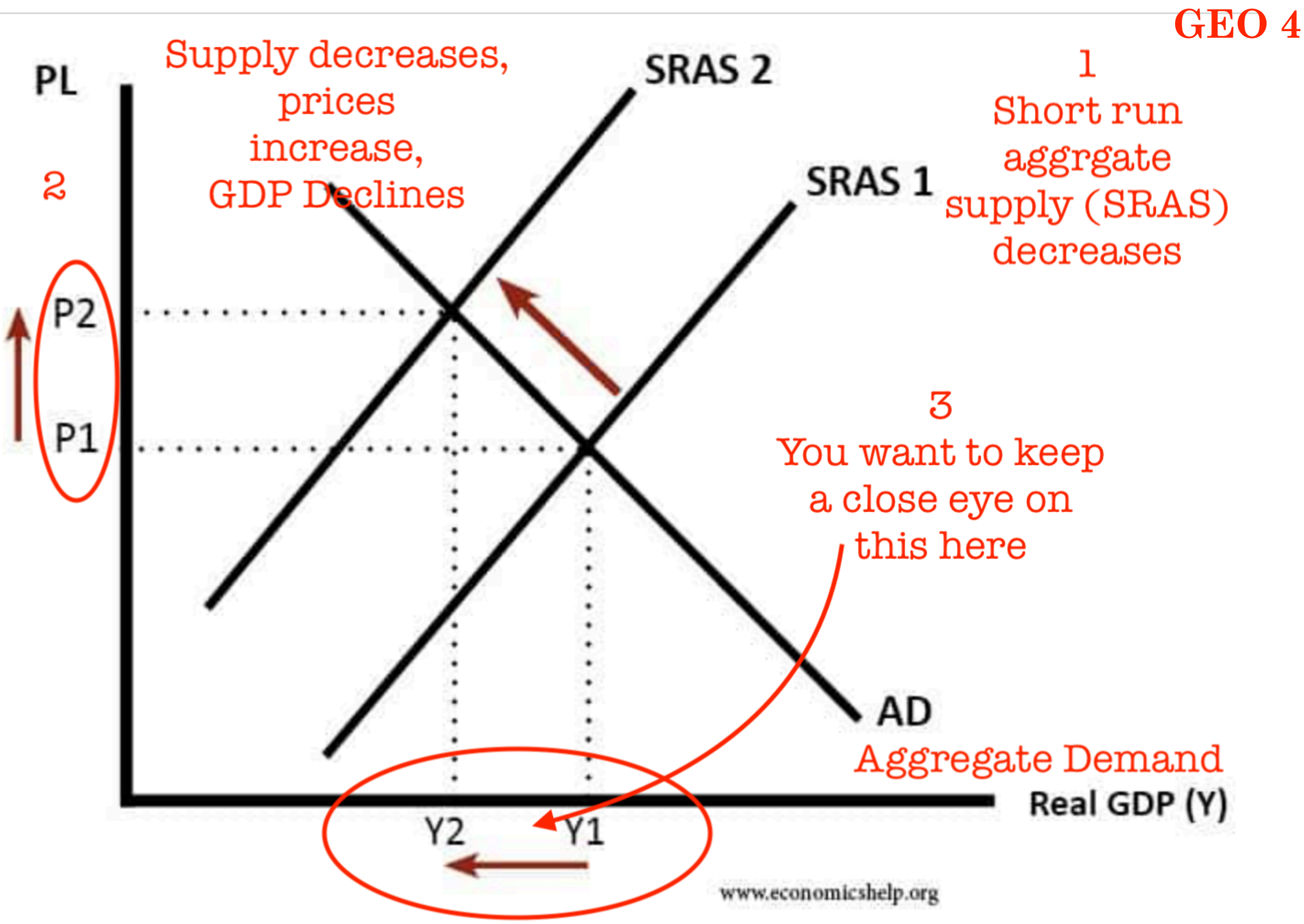
A supply side shock may cause an increase in the prices of the goods that are available to sell which causes a shift in the aggregate prices in the economy as a whole.

Another supply side shock may occur when inflation causes the price of goods to increase over the level that a firm can eat to avoid passing on the cost to their customers. This causes earnings to decline and eventually share prices to decline. If the market does not re-establish equilibrium fairly quickly, right after earnings decline, the price may get passed on to the consumer which may cause demand to drop which will ultimately cause earnings to decline. This is cost-push inflation which is a bit different from what you normally hear about too many dollars chasing too few goods or demand-pull inflation.

So to recap: cost-push inflation is a decrease in the aggregate supply of goods and services caused by an increase in the cost of production, and demand-pull inflation is an increase in aggregate demand from one or more or all of households, business, governments, and foreign customers.

Inflationary pressure is compounded by an increase in the money supply, especially a sharp increase in the money supply.

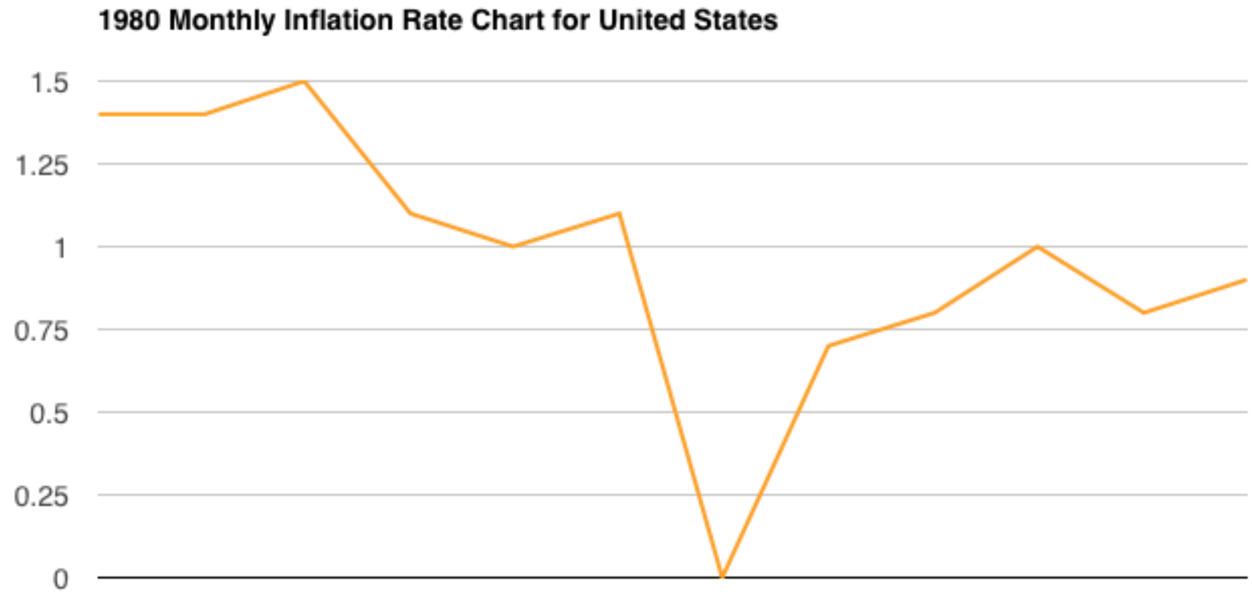
All this should be sounding familiar if you follow the news.



The Stagflation Three Point Play

Historical examples of stagflation events in the US are particularly related to energy cost shocks and OPEC's use of oil embargos to influence US foreign policy and support for Israel. We'll come back to this, but remember that the crippling stagflation of the 1970s was largely due to one input–energy. The gas lines of the 1970s and heating oil price increases were particularly profound and the resulting stagflation influenced the increase in interest rates to a prime rate of 21.5% in December of 1980 after President Jimmy Carter lost reelection. It may be hard to comprehend a prime rate of 21.5% in this low interest rate environment, but don't feel bad–it wasn't so easy to understand then, either. The shys were jealous.

GEO 4



Could it happen again? At this point, I think it's hard for anyone to rule it out entirely, so the probability is a positive integer. What did songwriters do during the stagflation era of the 1970s? Unlike most of the rest of the peacetime economy, songwriters had mechanical royalties set by the government at a fixed price. Starting in 1909, the federal government set songwriter royalties at 2¢ per unit and never changed the price until 1978. Needless to say, the stagflation of the 1970s destroyed the government's fixed songwriter royalties. By 1978 it's not an overstatement to say that songwriters earned a negative royalty rate if you adjusted for inflation. This was all due to the government's wage controls on songwriters. (You can argue that this is the primary reason songwriters get paid so little today.)

Mechanical License Royalty Rates

FROZEN ROYALTIES FOR 68 YEARS

DATE	RATE	AUTHORITY
1909-1977	2 cents	Copyright Act of 1909

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Why did this happen? Government mandated wage and price controls were common in wartime–during World War II, military expenditures exceeded 40% of gross domestic product (GDP) so the government had an interest in controlling labor and materials costs. They accomplished this through the War Labor Board and the Office of Price Administration. If that sounds positively Soviet, it was. Unlike songwriter royalties, the government mandate was temporary.

By the time the 1976 revision to the Copyright Act rolled around, songwriters lobbied effectively for their statutory mechanical rate to be increased. However, given the rampant inflation of the time, they needed protection because even with prices reset after five year periods, inflation could easily eat away any gains. That's one reason why after the 1976 revision, mechanical rates gradually increased and eventually were increased based on the Consumer Price Index (called "indexing") for many years.

GEO 4

Mechanical License Royalty Rates

DATE	RATE	AUTHORITY
1909-1977	2 cents	Copyright Act of 1909
January 1, 1978	2.75 cents or 0.5 cent per minute of playing time or fraction thereof, whichever is greater	Copyright Act of 1976
January 1, 1981	4 cents or 0.75 cent per minute of playing time or fraction thereof, whichever is greater	1980 Mechanical Rate Adjustment Proceeding
January 1, 1983	4.25 cents or 0.8 cent per minute of playing time or fraction thereof, whichever is greater	1980 Mechanical Rate Adjustment Proceeding
July 1, 1984	4.5 cents or 0.85 cent per minute of playing time or fraction thereof, whichever is greater	1980 Mechanical Rate Adjustment Proceeding
January 1, 1986	5 cents or 0.95 cent per minute of playing time or fraction thereof, whichever is greater	1980 Mechanical Rate Adjustment Proceeding
January 1, 1988 to December 31, 1989	5.25 cents or 1 cent per minute of playing time or fraction thereof, whichever is greater	17 U.S.C. 801 (b)(1) and 804. Based upon the change in the Consumer Price Index from Dec. 1985 to Sept. 1987
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If you followed the recent commentary opposing an extended freeze of the mechanical royalty rate for physical and downloads, the inflation issue is front and center once again. And if you observe the current state of the economy and the likely future, you'll understand why indexing may be crucial to preserving the value of whatever mechanical royalty is set by the Copyright Royalty Board, the songwriter's version of the WWII era Office of Price Administration. And who would bet against inflation?

Of course, the CRB heard absolutely no evidence on the inflation issue from the NMPA, NSAI and the major labels that essentially put their finger in the air and decided to freeze rates. That's not the end of the story, though. The relevant information on inflation is readily available in the public domain and the CRB can take notice of it if they want.

Remember, the 1970s stagflation was a highly unusual economic condition caused by a supply side shock of one input–energy. Here's a few examples of current supply side shocks from multiple inputs. I think it should give everyone pause before they rule out a need to index the statutory rates for songwriters.

Personal Consumption Expenditure Index (US Govt. Bureau of Economic Analysis)

The "PCE" and "Core PCE" are indexes that economists monitor (such as the economists at the Federal Reserve) to track inflation trends. So let's see what these metrics tell us about the inflationary trends that would be an argument to support indexing mechanical royalties.

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Personal Consumption Expenditures Price Index

Change from Month One Year Ago

August 2021	4.3 percent
July 2021	4.2 percent
June 2021	4.0 percent
May 2021	4.0 percent

The PCE price index, released each month in the Personal Income and Outlays report, reflects changes in the prices of goods and services purchased by consumers in the United States. Quarterly and annual data are included in the GDP release.

Current Release

Current Release: October 1, 2021 Next Release: October 29, 2021

“Core PCE” is another look at consumer prices that excludes the cost of food and energy which doesn’t make much sense to you and me, but is another way to look at underlying inflation trends for economists. This is important because it can influence decisions about interest rates at the Federal Reserve.

GEO 4

Personal Consumption Expenditures Price Index, Excluding Foo

Change From Month One Year Ago

August 2021	3.6 percent
July 2021	3.6 percent
June 2021	3.6 percent
May 2021	3.5 percent

The PCE Price Index Excluding Food and Energy, also known as the core PCE price index, is released as part of the monthly Personal Income and Outlays report. The core index makes it easier to see the underlying inflation trend by excluding two categories – food and energy – where prices tend to swing up and down more dramatically and more often than other prices. The core PCE price index is closely watched by the Federal Reserve as it conducts monetary policy.

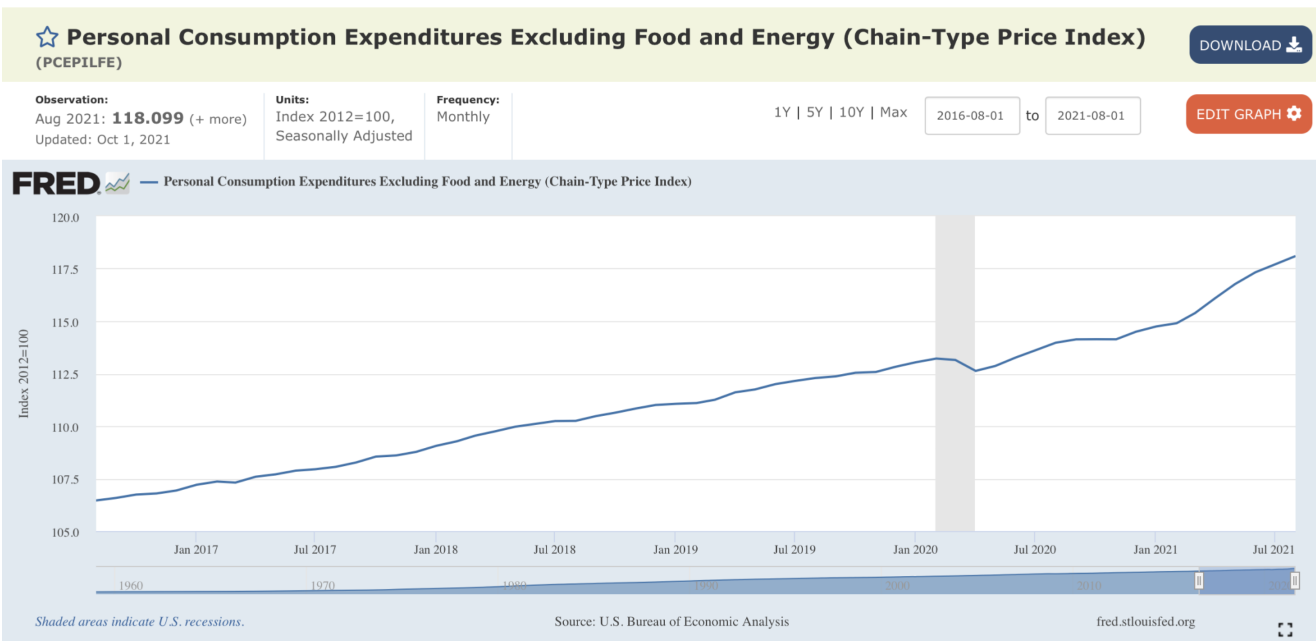
Quarterly and annual data are included in the GDP release.

Current Release

Current Release: October 1, 2021 Next Release: October 29, 2021

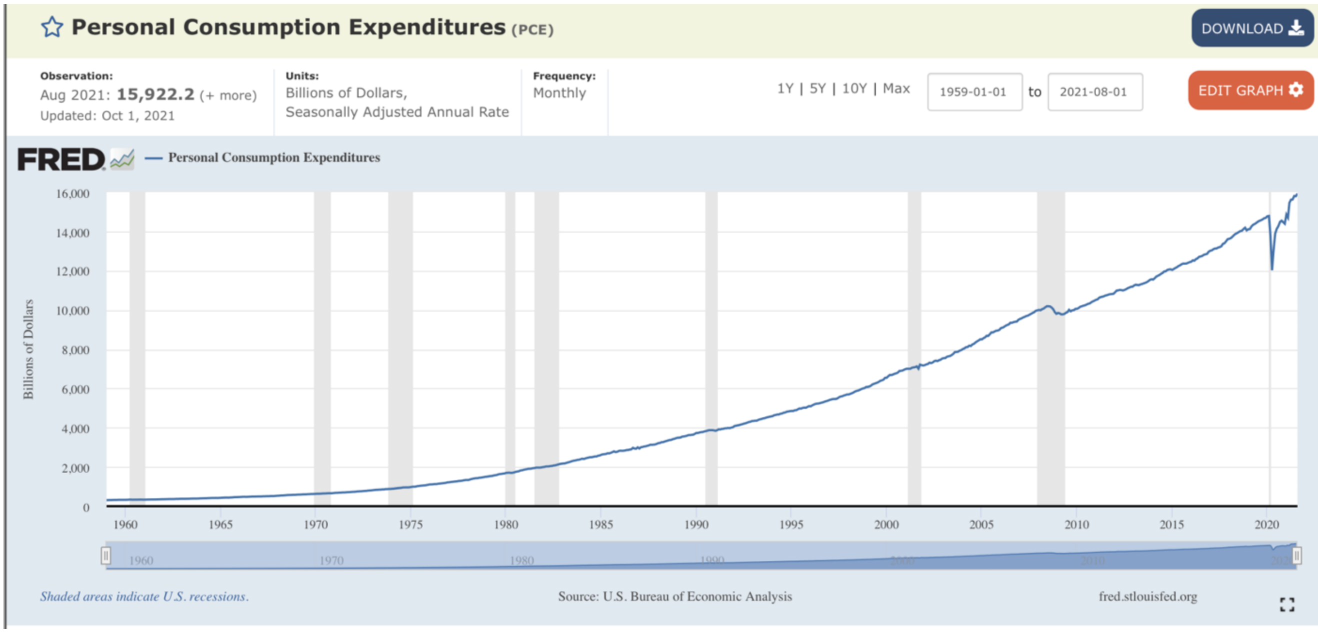
For perspective, here's a five-year look at PCE and at PCE excluding food and energy:

GEO 4



The data tell us that the five year inflationary trend is up and to the right with an increasing slope. It is the sharpness of that increasing slope that gives pause–the inflationary trend has been up since 1959 per the following chart, but the steepness over the last 12 months is unusual.

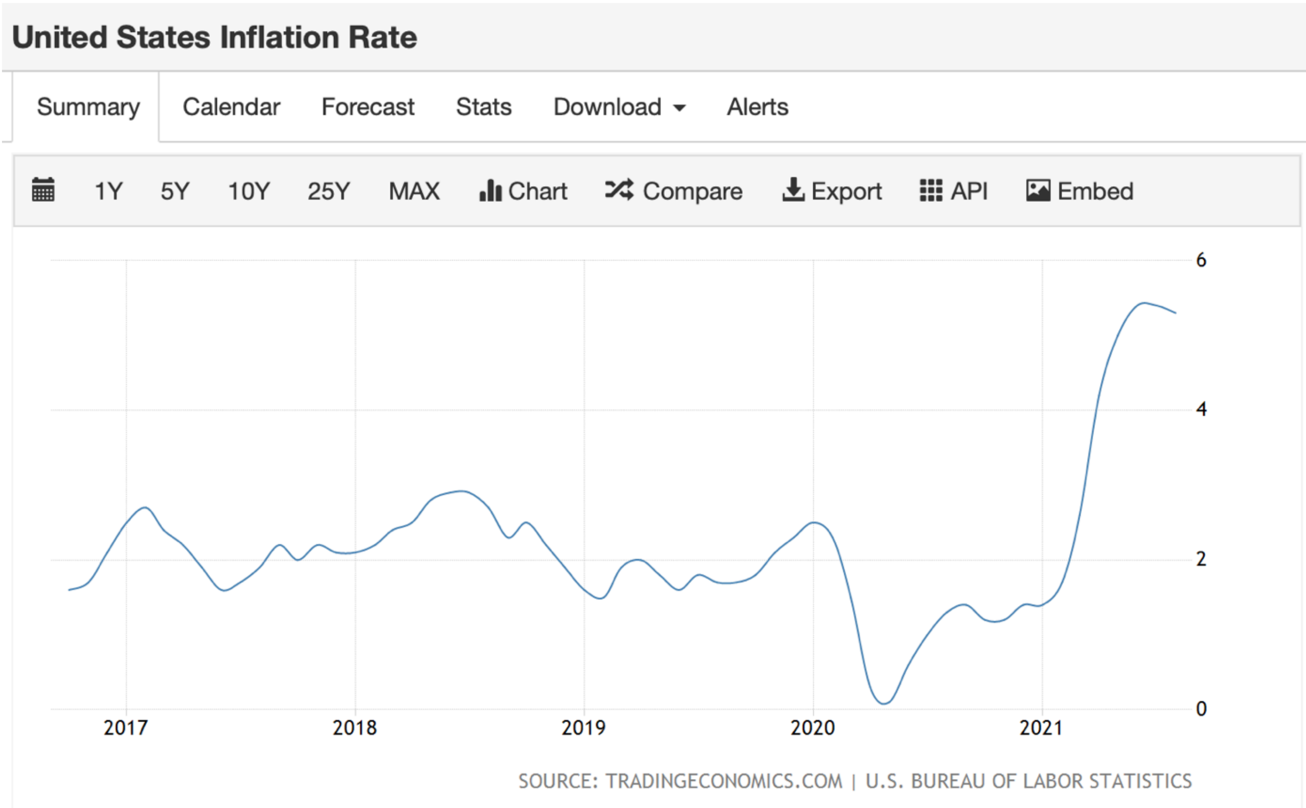
GEO 4



Overall US Inflation Rate

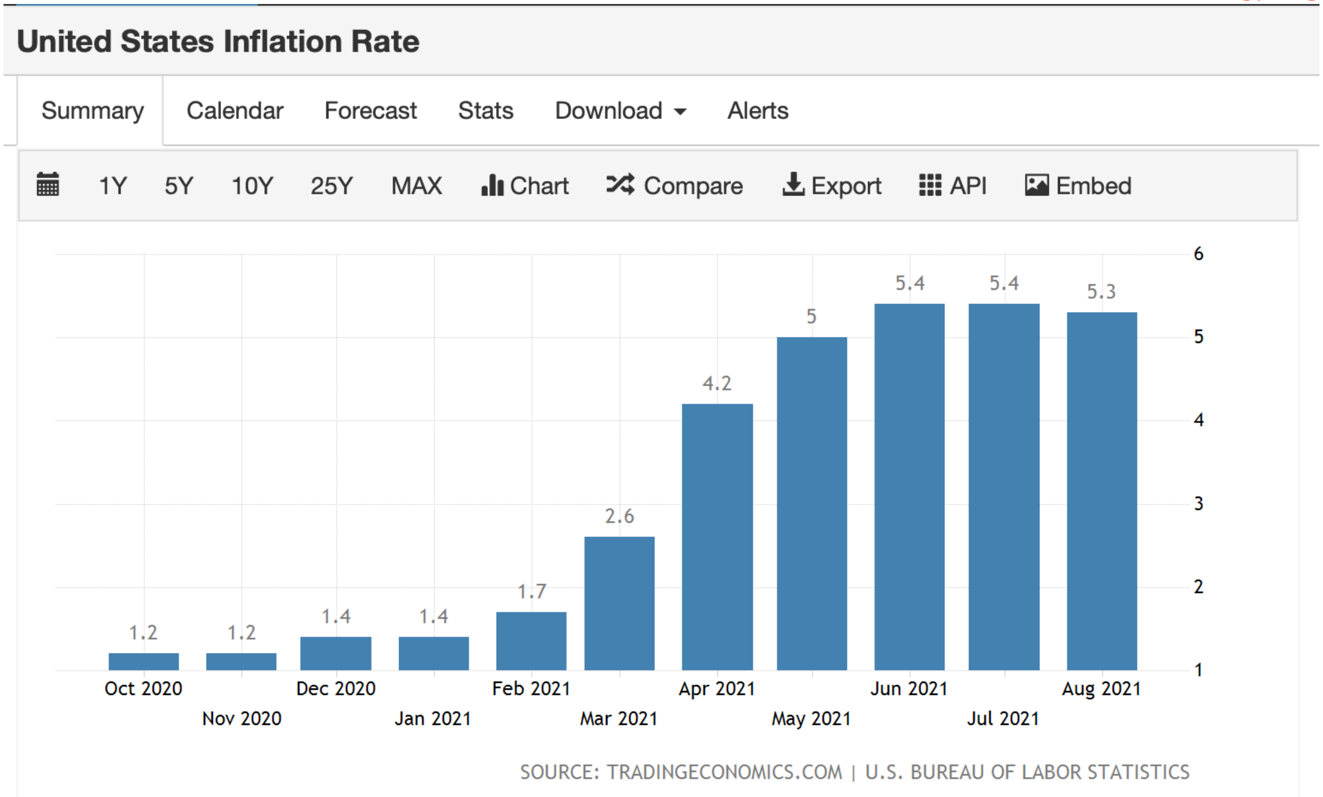
The PCE and Core PCE is confirmed by the overall U.S. inflation rate as measured by the U.S. Bureau of Labor Statistics:

GEO 4



You see the trend here. Inflation has sharply increased. Consider the last twelve months–inflation has tripled.

GEO 4

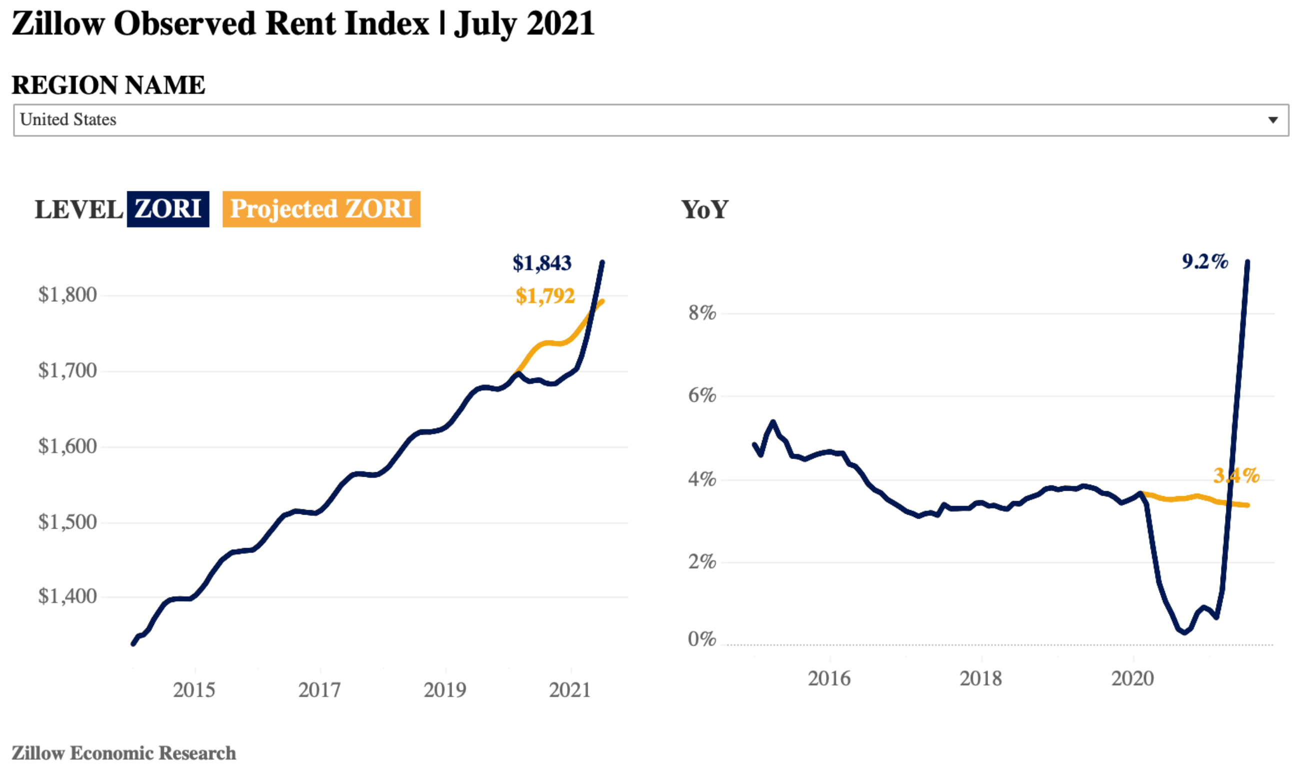


Do we think it will continue to increase or will it decline? Let's consider the inputs that can cause that supply side shock we talked about above.

Residential Rent Prices

According to Zillow, "[t]ypical U.S. rents grew 9.2% year-over-year in July, according to the Zillow Observed Rent Index (ZORI) — the fastest recorded by Zillow records in data that reaches back through 2015 — to $1,843/month. Projecting forward historical ZORI values from February 2020 — the last full month before the COVID-19 pandemic hit the U.S. in earnest — we estimate that the U.S. ZORI in July was 2.9% ($52) higher than where it would have been if the last roughly 18 months had been more 'normal.' "

GEO 4



And [CBS news confirms the data](#):

> *After dipping last spring, rents around the U.S. have not only recovered but are now blasting past their pre-pandemic levels. In 44 of the nation's 50 largest metro areas, rents have surpassed where they were before the health crisis, according to data from Realtor.com. Nationwide, the median rent reached a record high of $1,575 in June, an increase of 8% from a year ago.*

Cotton

Cotton is a commodity that finds its way into many goods. The Wall Street Journal [reports](#) that cotton prices have surged to their highest level in a decade, but that Levis won't be passing on the cost increase to consumers–yet. Remember cost-push inflation?

> *Levi's commentary on the cotton-pricing issue should soften some of*

GEO 4

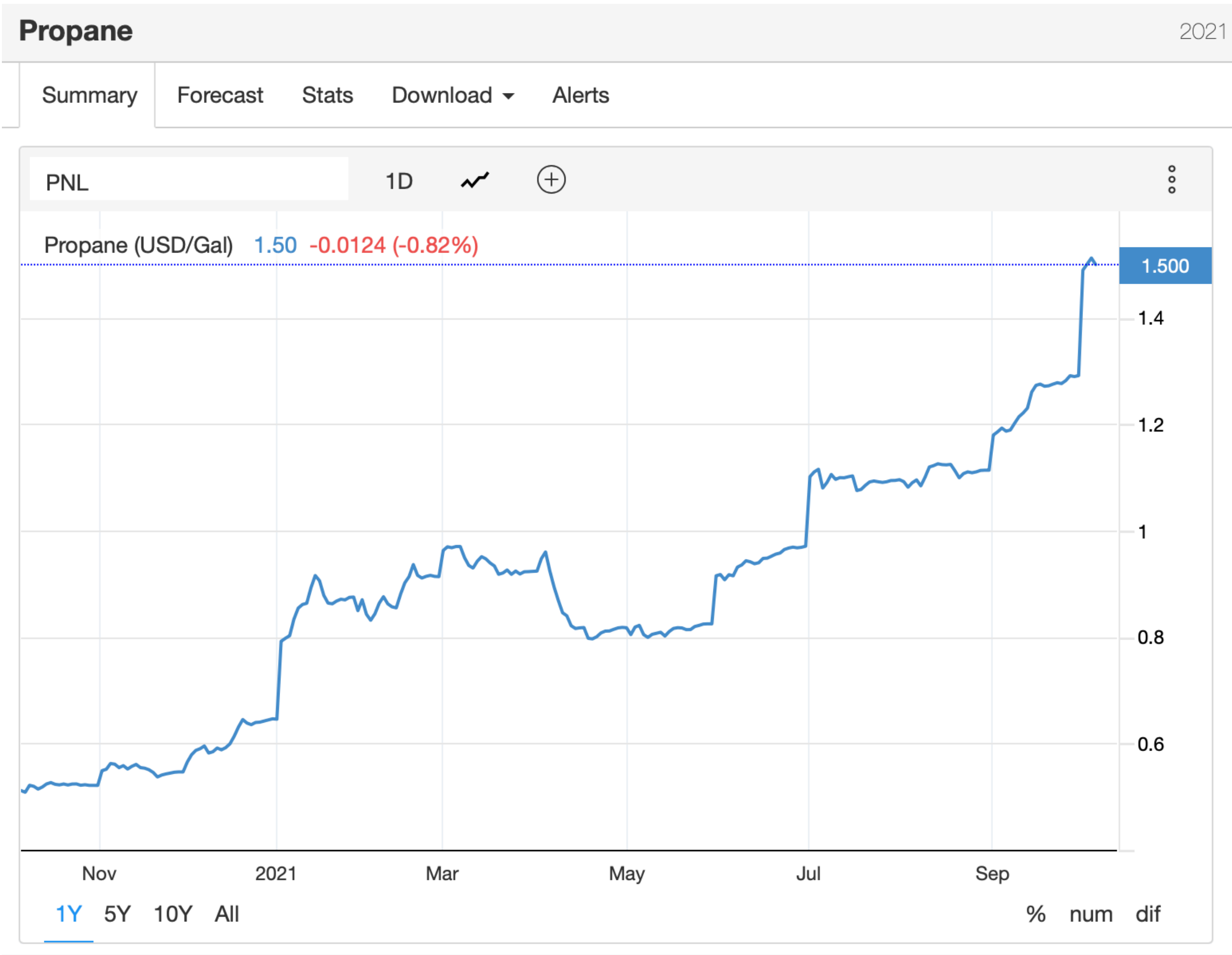
> *those fears—at least in the near term. On its earnings call Wednesday evening, the apparel company said that much of its own cotton prices have already been negotiated for the first half of 2022 and that it expects its cost of goods sold to increase 1% in the first half of 2022 compared with 2021 levels. For the second half of 2022, the company said it might be able to negotiate prices that will lead to a mid-single-digit percentage increase in costs compared with 2021 levels. Cotton accounts for about a fifth of the cost of producing Levi's jeans.*

Propane

Propane–also known as heat–is a lot more relevant to consumers particularly

GEO 4

as we head into winter. Propane generators are of particular interest to anyone who suffered a power outage during a polar vortex–ahem–and as you can see, propane prices are already through the roof.



Same story for natural gas and heating oil.

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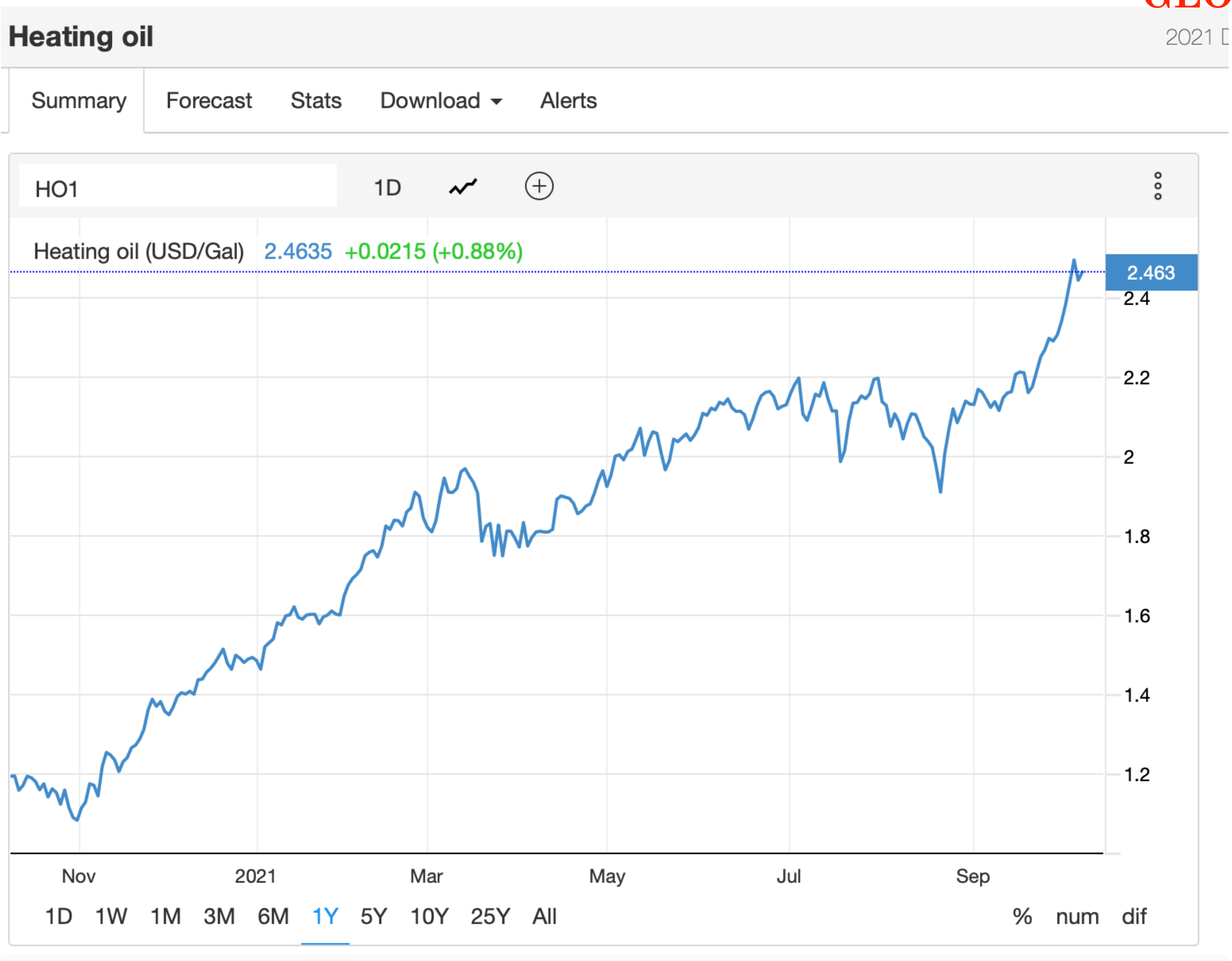
Natural gas

2021 D

Summary Forecast Stats Download Alerts

GEO 4



Gasoline

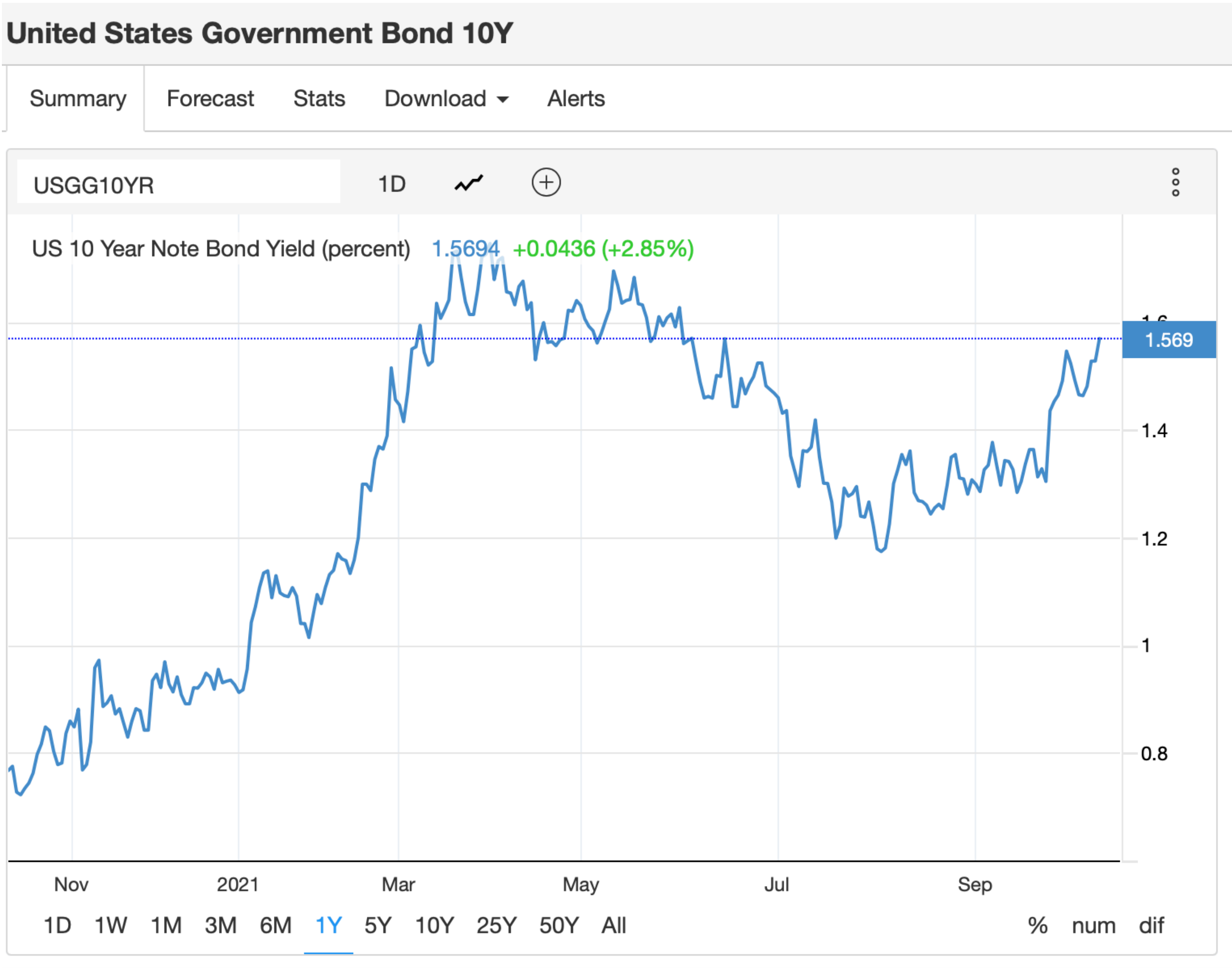
If you're planning a ground tour, keep an eye on the price of gasoline, also up and to the right.

GEO 4

10 Year US Treasury Bonds

You may not be aware of it, but practically everything in your financial life is affected by the 10 Year US Treasury bond. The "10 Year" is used as a reference point for a multitude of financial instruments and interest rates around the world. This includes mortgage rates and credit card rates. As you can see, over the past 12 months, the yield on the 10 Year treasury note has increased or nearly doubled. And remember that the bond market is orders of magnitude larger than the stock market. The bond market is also run by sophisticated traders–I've never heard of day traders in the bond market.

GEO 4



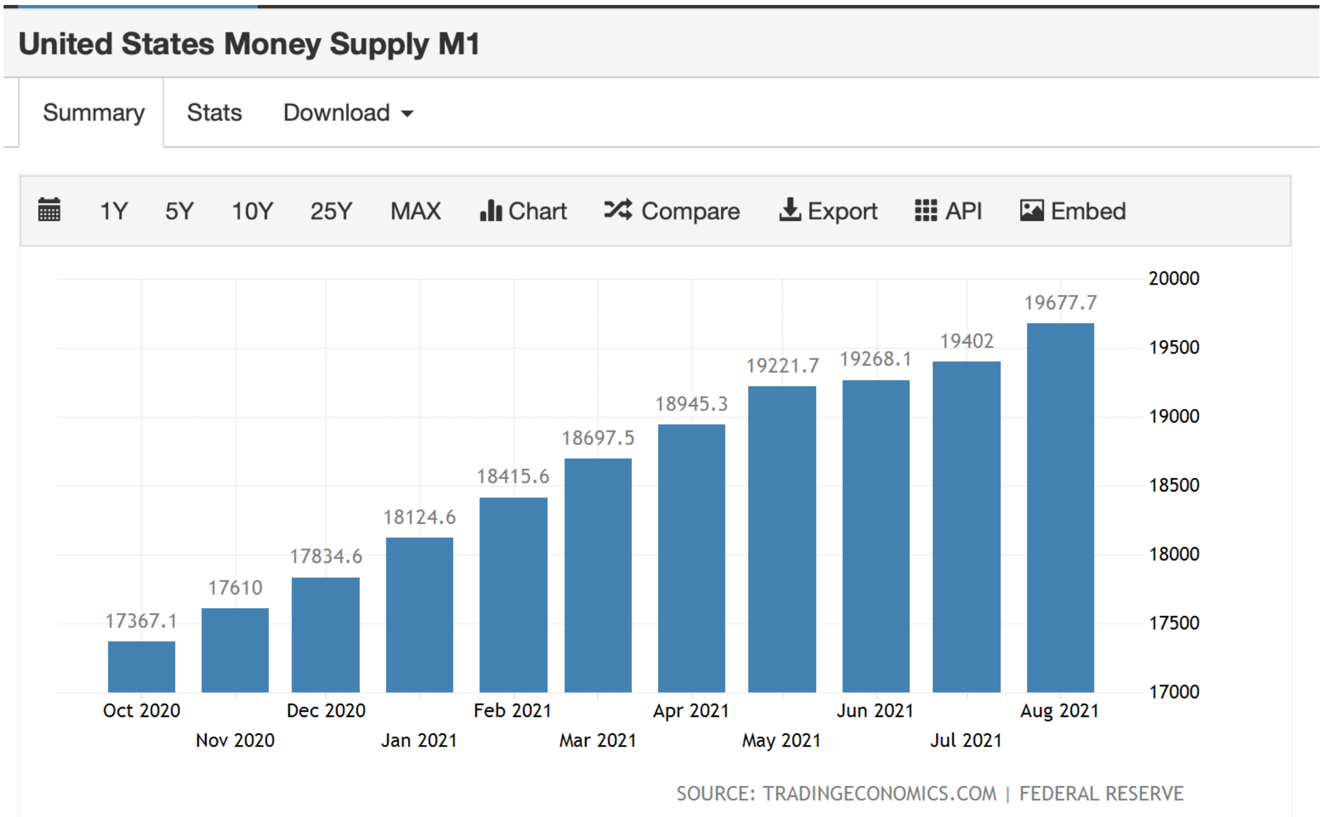
You want to keep a good eye on the 10 year because the Federal Reserve plans to “taper” which is one of those fancy names like “quantitative easing” that sounds like a caramel macchiato but is actually not. What that means in a nutshell is that the Federal Reserve plans on buying fewer treasury bonds than they have done–sopping up however much debt that Congress wants to take on. (Some people say this is a lot like printing money–remember that increasing the money supply is one of the causes of inflation, particularly sharp increases in the money supply.)

A cynic–certainly not me–might say that the Federal Reserve keeps the interest rates low because if the U.S. government ever had to pay anything

GEO 4

like a market interest rate, the country would go under. But this cannot go on forever, hence "tapering".

People may disagree with this "printing money" analogy, but the money supply has substantially increased in the last 12 months and it came from somewhere.



Conclusion

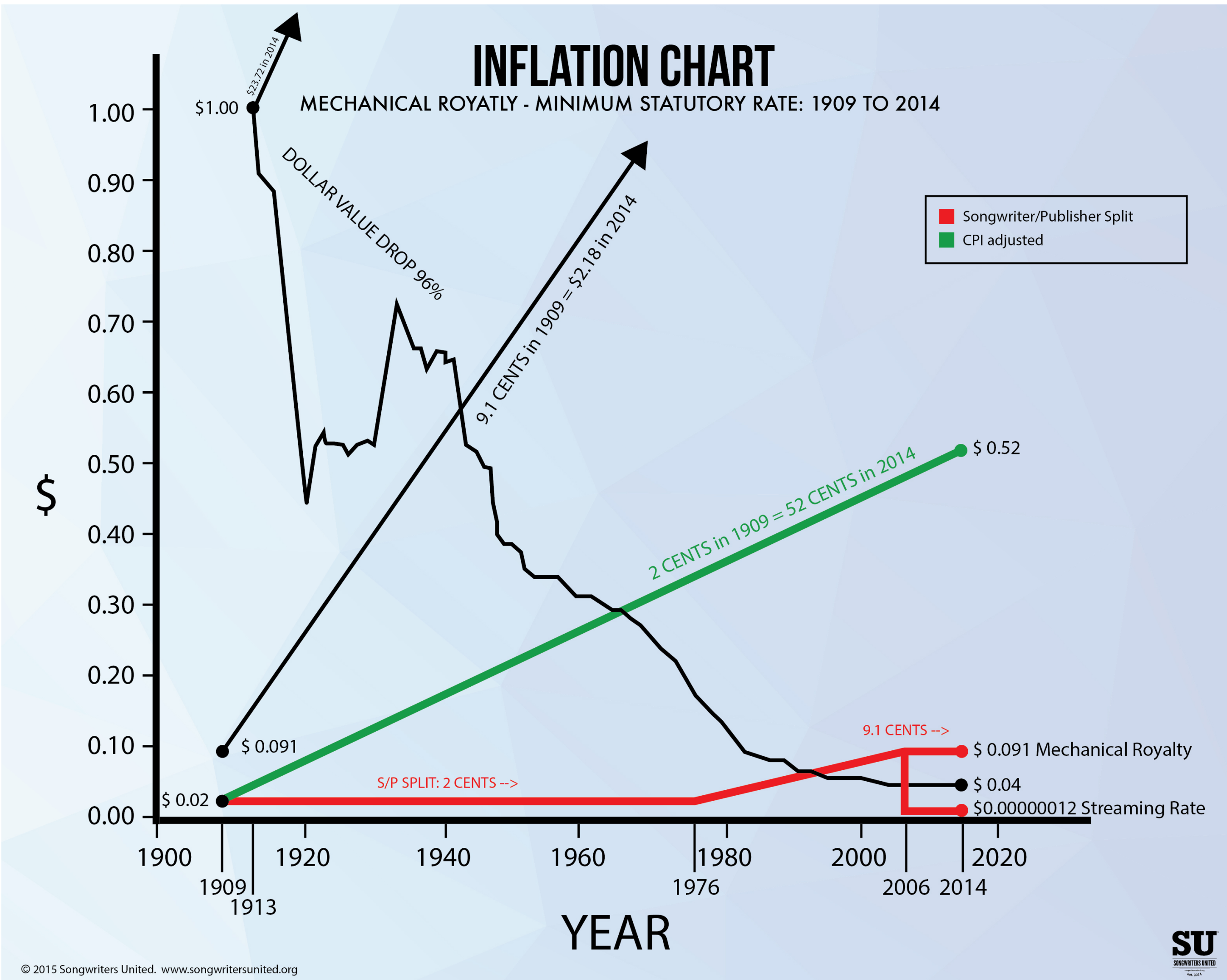
If you stayed with me this far, thank you. I hope I've persuaded you that it in the current environment it is highly dubious that songwriters should ever agree to a fixed mechanical rate for any configuration that is not indexed to inflation. Even if you don't think that stagflation is around the corner, we are certainly seeing considerable inflation in a number of inputs–the supply side shock that is the hallmark of a period of stagflation may not come solely

GEO 4

from energy this time. Just because energy was the culprit before doesn't mean that the economy will not succumb to stagflation by a thousand cuts in the future.

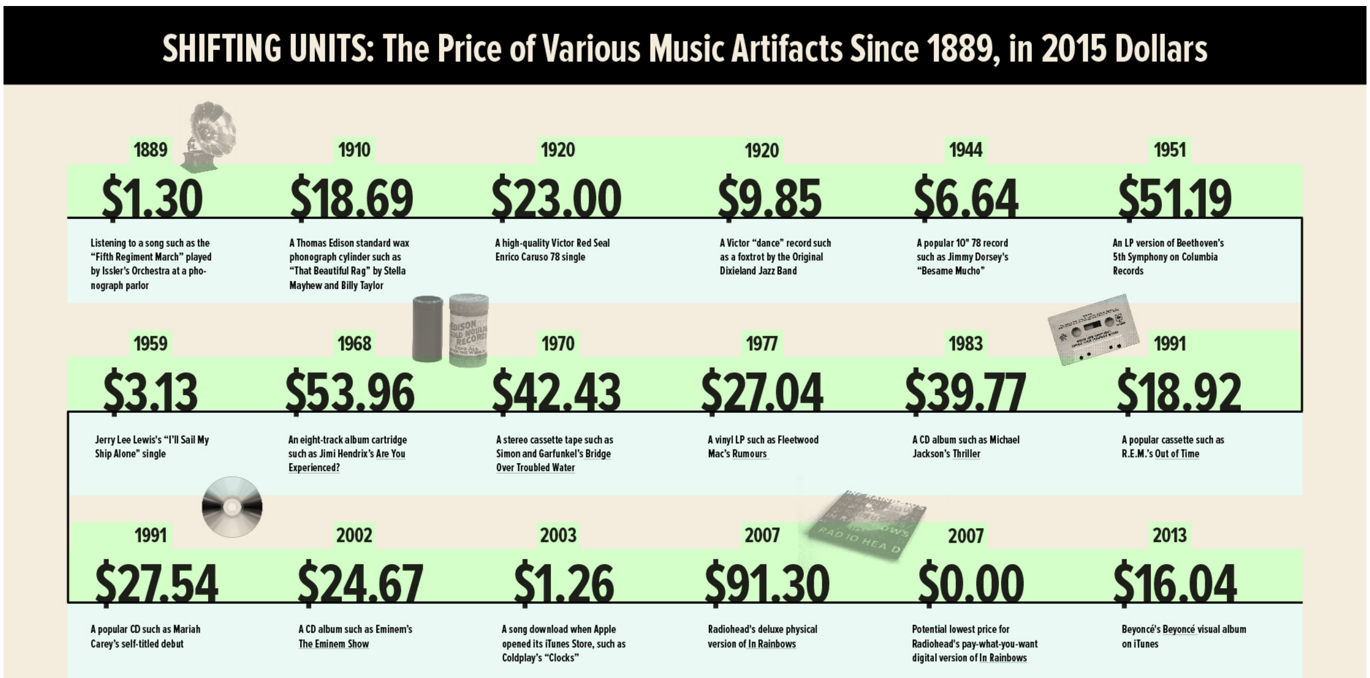
I once had a cat that would run to the closet when unknown visitors arrived. I said he was guarding the closet because they could be coming that way. If you're going to be forced to take the government cheese, maybe songwriters should build in an indexed escalator like the CRB did in the webcasting rates to at least allow you to keep your head above the inflation or stagflation waters.

GEO 5



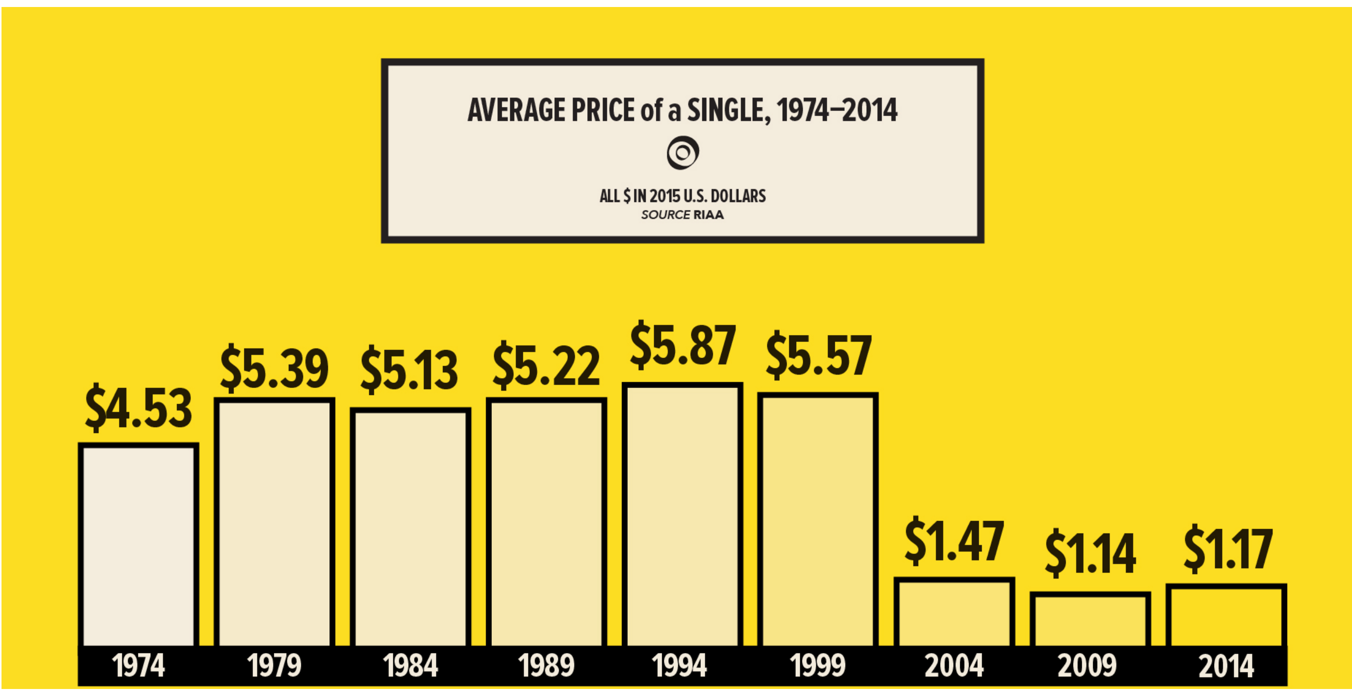
INFLATION CHART
MECHANICAL ROYALTY - MINIMUM STATUTORY RATE: 1909 TO 2014
Songwriter/Publisher Split
CPI adjusted
$
1.00
0.90
0.80
0.70
0.60
0.50
0.40
0.30
0.20
0.10
0.00
$1.00
$23.72 in 2014
DOLLAR VALUE DROP 96%
9.1 CENTS in 1909 = $2.18 in 2014
2 CENTS in 1909 = 52 CENTS in 2014
$ 0.52
$ 0.091
$ 0.02
S/P SPLIT: 2 CENTS -->
9.1 CENTS -->
$ 0.091 Mechanical Royalty
$ 0.04
$0.00000012 Streaming Rate
1900
1920
1940
1960
1980
2000
2020
1909
1913
1976
2006
2014
YEAR
SU
© 2015 Songwriters United. www.songwritersunited.org

GEO 6

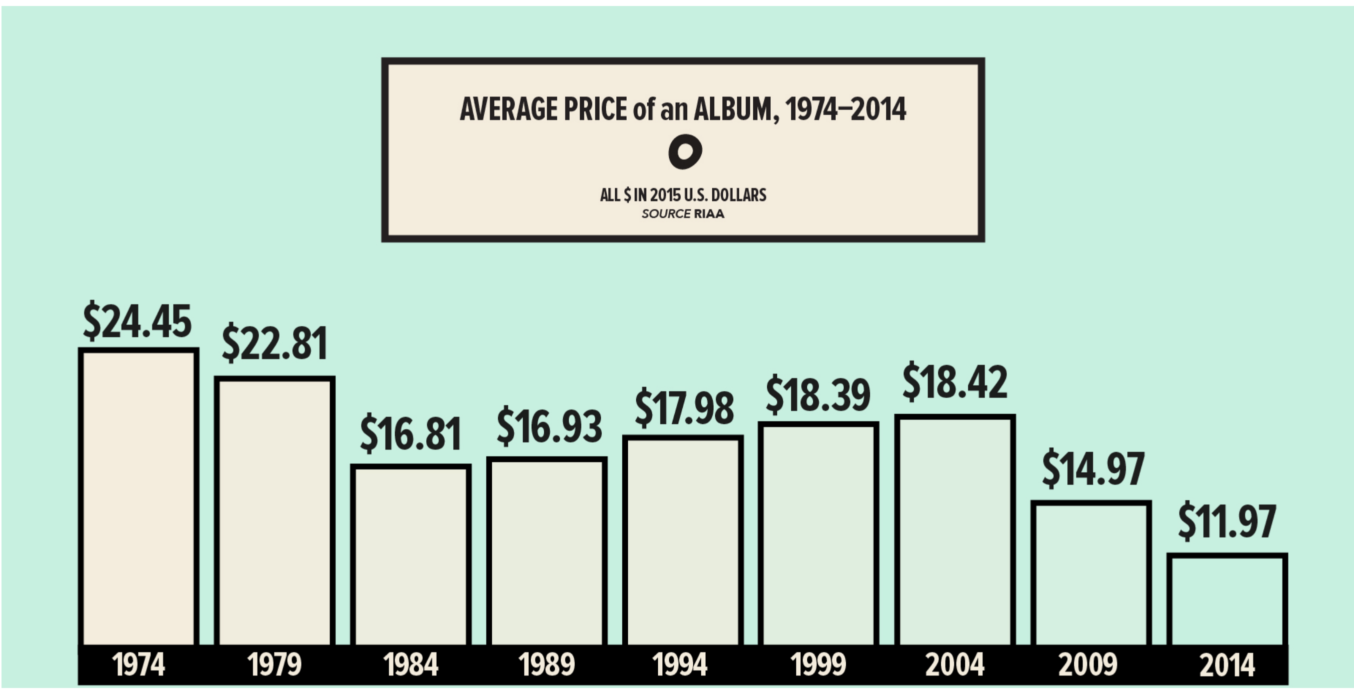


SHIFTING UNITS: The Price of Various Music Artifacts Since 1889, in 2015 Dollars
1889
$1.30
Listening to a song such as the "Fifth Regiment March" played by Issler's Orchestra at a phonograph parlor
1910
$18.69
A Thomas Edison standard wax phonograph cylinder such as "That Beautiful Rag" by Stella Mayhew and Billy Taylor
1920
$23.00
A high-quality Victor Red Seal Enrico Caruso 78 single
1920
$9.85
A Victor "dance" record such as a foxtrot by the Original Dixieland Jazz Band
1944
$6.64
A popular 10" 78 record such as Jimmy Dorsey's "Besame Mucho"
1951
$51.19
An LP version of Beethoven's 5th Symphony on Columbia Records
1959
$3.13
Jerry Lee Lewis's "I'll Sail My Ship Alone" single
1968
$53.96
An eight-track album cartridge such as Jimi Hendrix's Are You Experienced?
1970
$42.43
A stereo cassette tape such as Simon and Garfunkel's Bridge Over Troubled Water
1977
$27.04
A vinyl LP such as Fleetwood Mac's Rumours
1983
$39.77
A CD album such as Michael Jackson's Thriller
1991
$18.92
A popular cassette such as R.E.M.'s Out of Time
1991
$27.54
A popular CD such as Mariah Carey's self-titled debut
2002
$24.67
A CD album such as Eminem's The Eminem Show
2003
$1.26
A song download when Apple opened its iTunes Store, such as Coldplay's "Clocks"
2007
$91.30
Radiohead's deluxe physical version of In Rainbows
2007
$0.00
Potential lowest price for Radiohead's pay-what-you-want digital version of In Rainbows
2013
$16.04
Beyoncé's Beyoncé visual album on iTunes

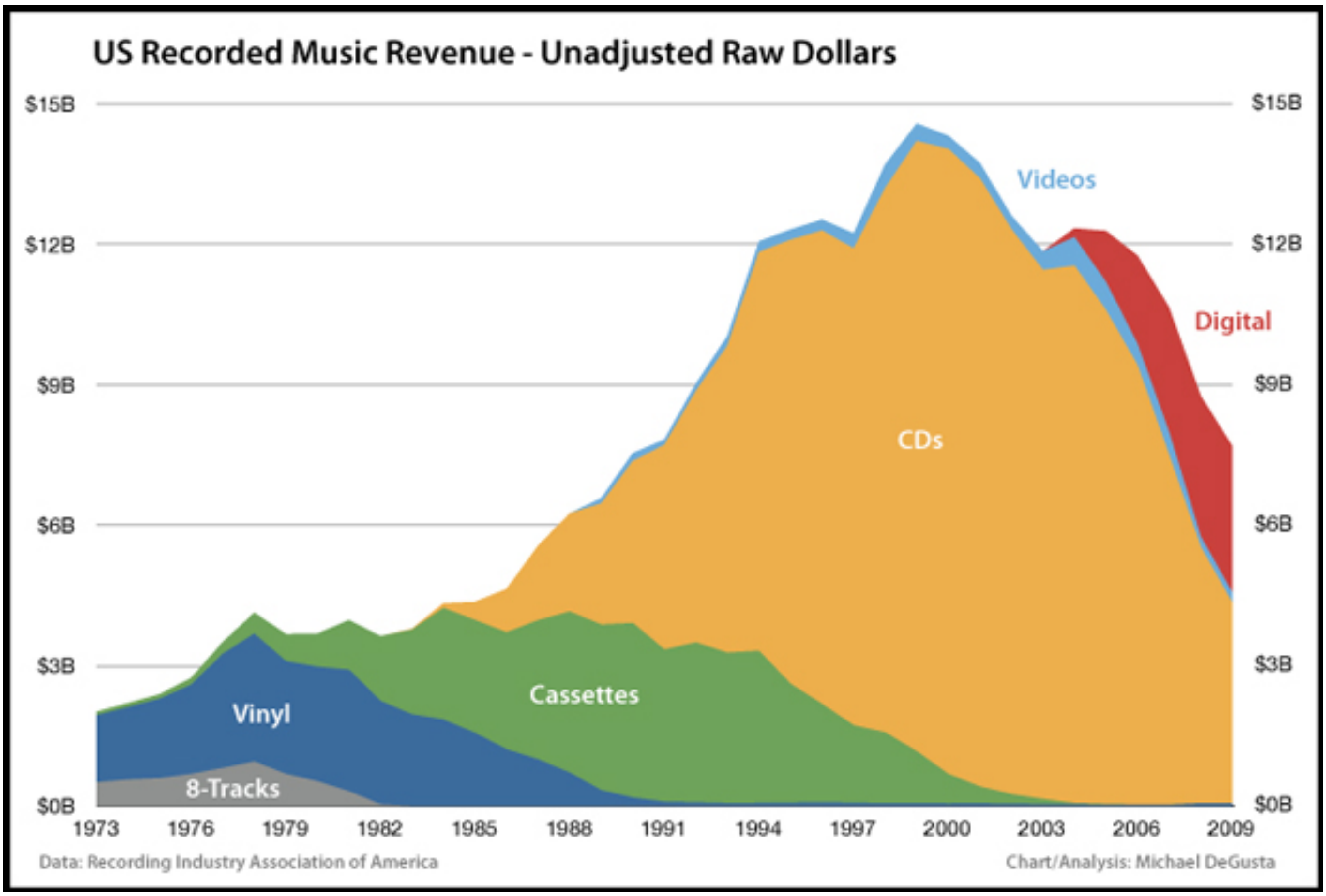
GEO 7


AVERAGE PRICE of a SINGLE, 1974–2014
ALL $ IN 2015 U.S. DOLLARS
SOURCE RIAA
$4.53
$5.39
$5.13
$5.22
$5.87
$5.57
$1.47
$1.14
$1.17
1974
1979
1984
1989
1994
1999
2004
2009
2014

GEO 8


AVERAGE PRICE of an ALBUM, 1974–2014
ALL $ IN 2015 U.S. DOLLARS
SOURCE RIAA
$24.45
$22.81
$16.81
$16.93
$17.98
$18.39
$18.42
$14.97
$11.97
1974
1979
1984
1989
1994
1999
2004
2009
2014

GEO 9

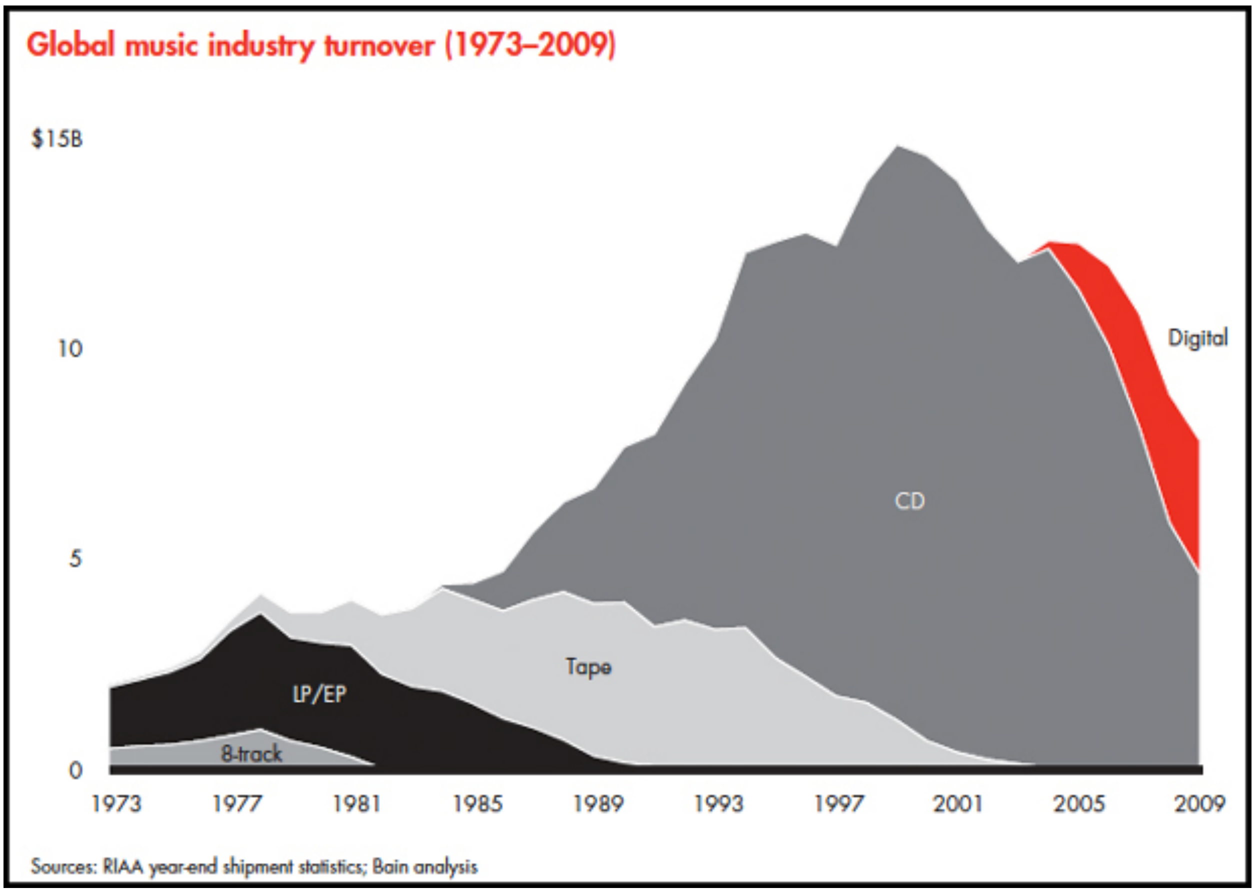

US Recorded Music Revenue - Unadjusted Raw Dollars
$15B
$12B
$9B
$6B
$3B
$0B
Videos
Digital
CDs
Cassettes
Vinyl
8-Tracks
1973
1976
1979
1982
1985
1988
1991
1994
1997
2000
2003
2006
2009
Data: Recording Industry Association of America
Chart/Analysis: Michael DeGusta

GEO 10

The REAL Death Of The Music Industry

Michael DeGusta

In January, Bain & Company produced the following chart as part of their report on "Publishing in the Digital Age" (PDF):



Bain Analysis

Then on Tuesday, someone posted it on Flickr. Subsequently, Peter Kafka of Wall Street Journal's MediaMemo noticed it and passed it along to Jay Yarow, who made it Business Insider's Chart of the Day on Wednesday, citing Kafka and the Flickr post. On Thursday, the excellent John Gruber at Daring

GEO 10

Fireball linked to it and between those two postings the chart garnered a fair bit of attention, including from the likes of apparent digital music expert Bob Lefsetz ("First in Music Analysis"). No one seems to have tracked it back to the original source nor noticed what happened to catch my eye straight away:

This chart sucks.

What's Wrong With It

Oh, Bain – I hope no one has hired you for your expert "analysis" in this field:

- The chart uses raw revenue numbers, not adjusted for inflation or population.
- The chart is labeled "Global Music Turnover" but the data is actually US only. [1]
- The chart says "Bain Analysis" but it's very unclear that they did any analysis, since anyone paying the RIAA $25 can login and immediately see virtually the same chart, albeit formatted slightly differently.
- They fail to clarify how & if they distribute the RIAA's 16 sometimes vague categories amongst the 4 they use.

The Right Chart

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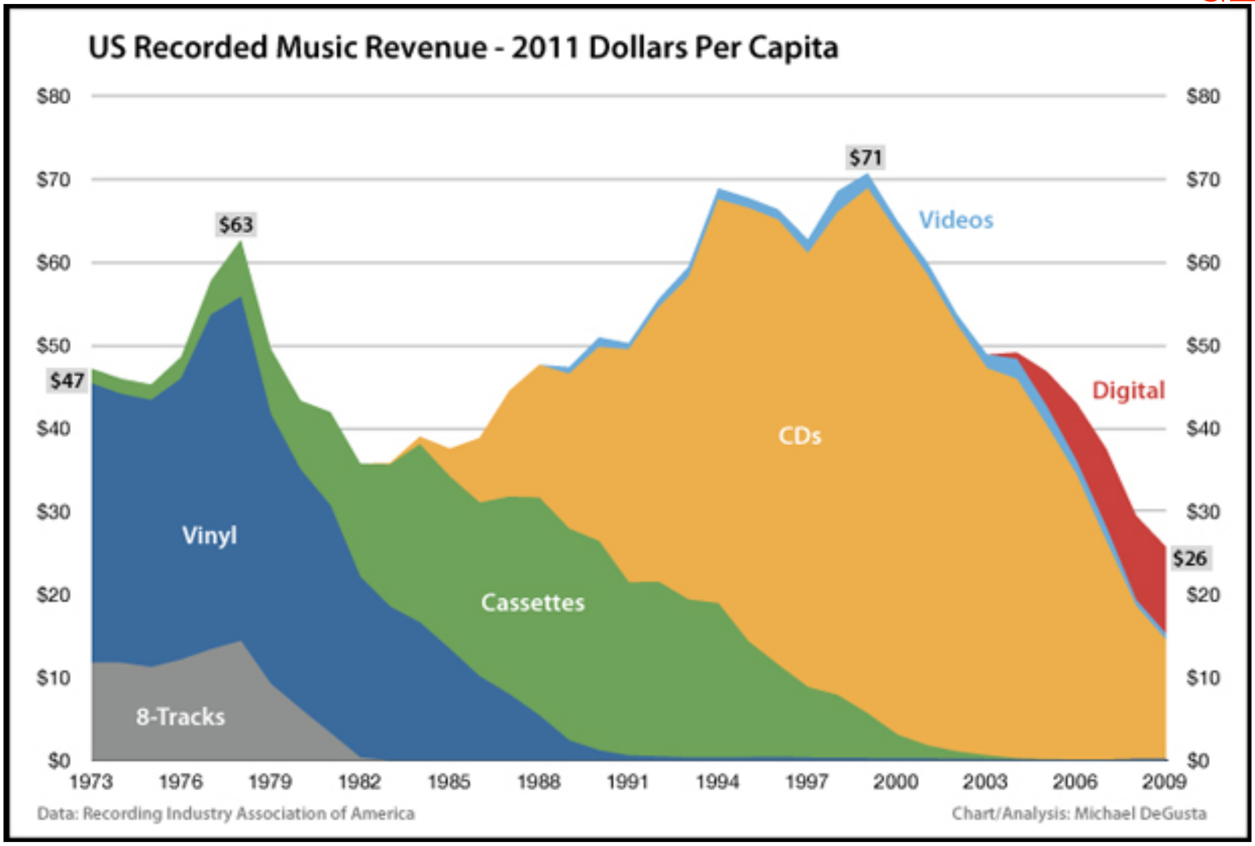


Recording Industry Association of America

All discussion herein is for US recorded music as covered by the RIAA. The above chart is adjusted for inflation & population – for full details, see below.

So let's correct the inaccurate conclusions one might reasonably draw from the misleading Bain chart:

> Wrong: The music industry is down around 40% from its peak in 1999
>
> Correct: The music industry is down 64% from its peak.

> Wrong: At least the music industry is almost 4 times better off than in 1973.
>
> Correct: The music industry is actually down 45% from where it was in 1973.

GEO 10

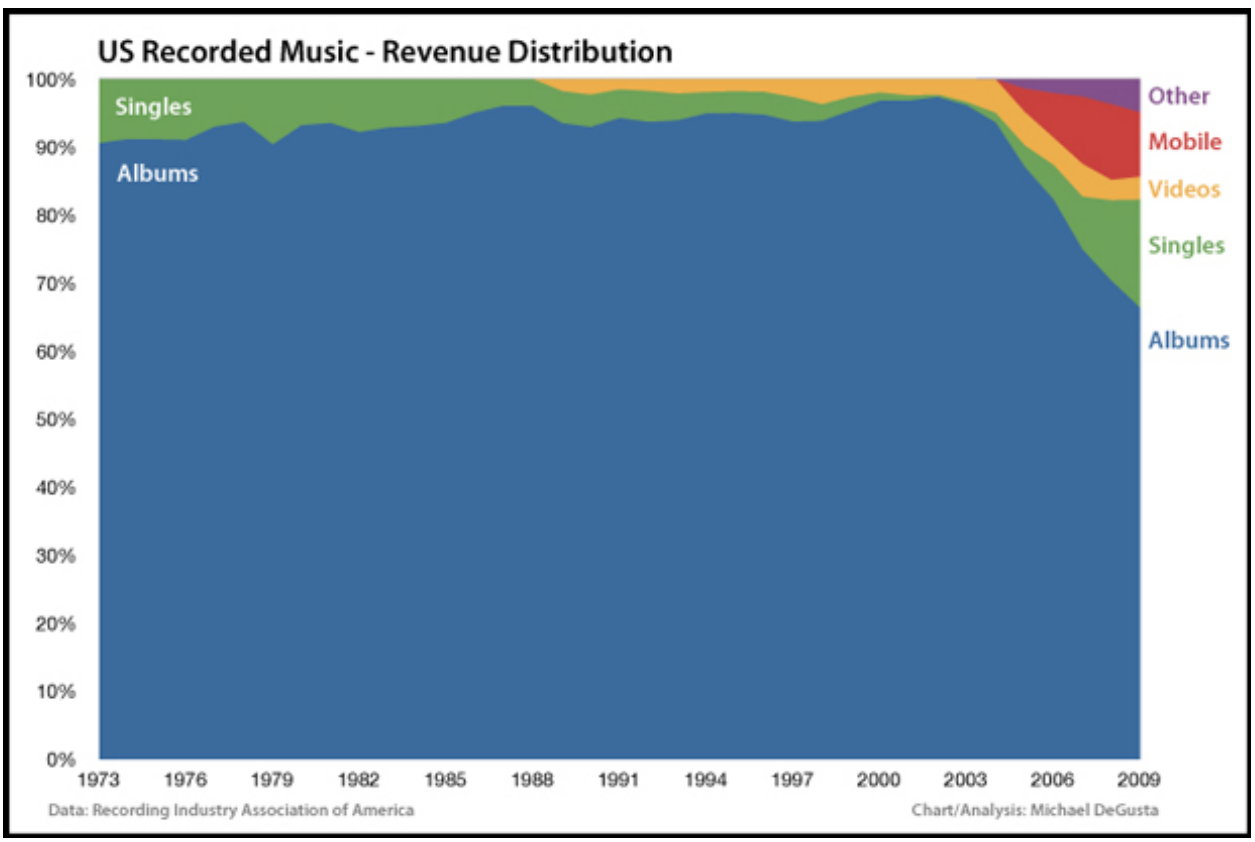
> Wrong: The CD era was the aberration. (Mr. Gruber's reasonable take)
>
> Correct: The CD peak was only 13% better than the vinyl peak, not over 250% better as the Bain chart implies.

The overall conclusion is that the music industry is actually doing much worse than the Bain chart implies:

> **10 years ago the average American spent almost 3 times as much on recorded music products as they do today.**
>
> **26 years ago they spent almost twice as much as they do today.**

What Happened?

Turns out that, somewhat unsurprisingly, the recording industry makes almost all their money from full-length albums:



Recording Industry Association of America

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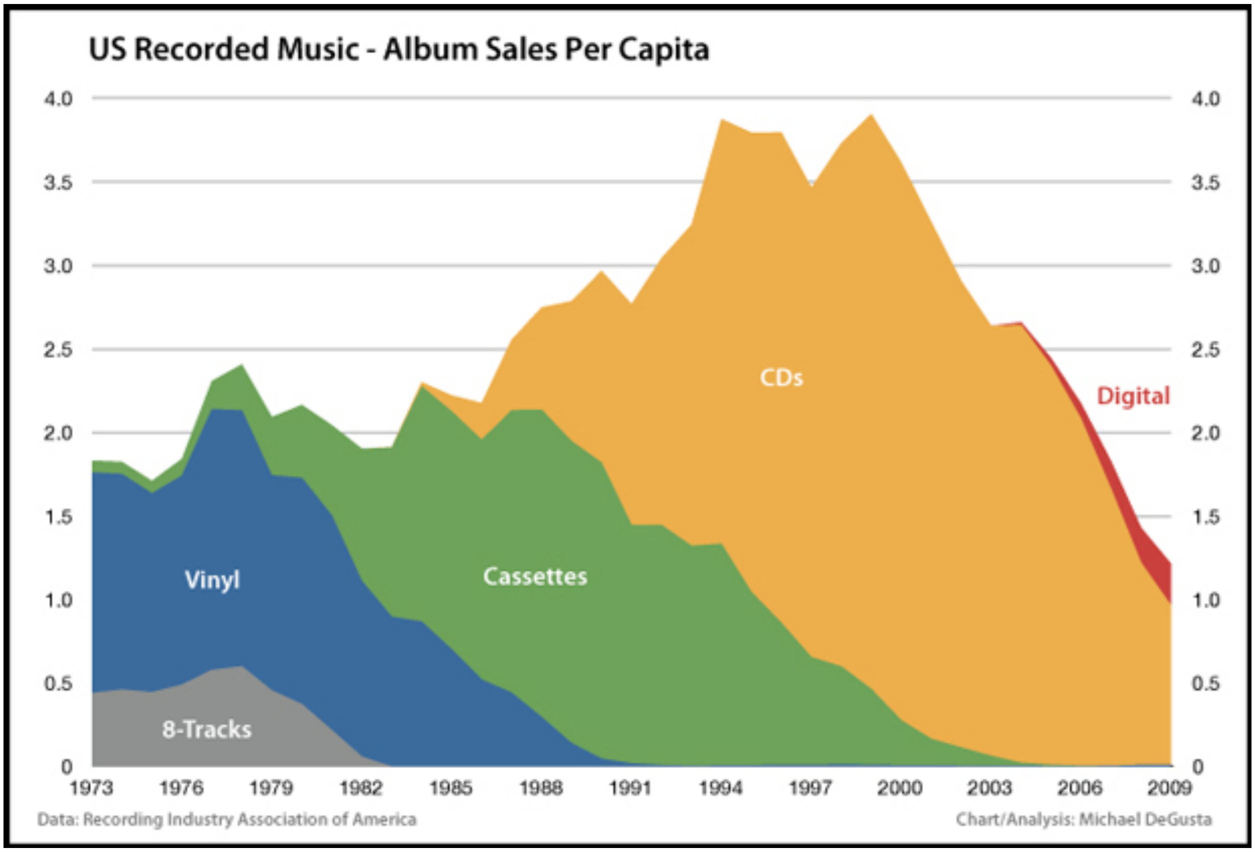
Equally unsurprising, no one is buying full albums any more:



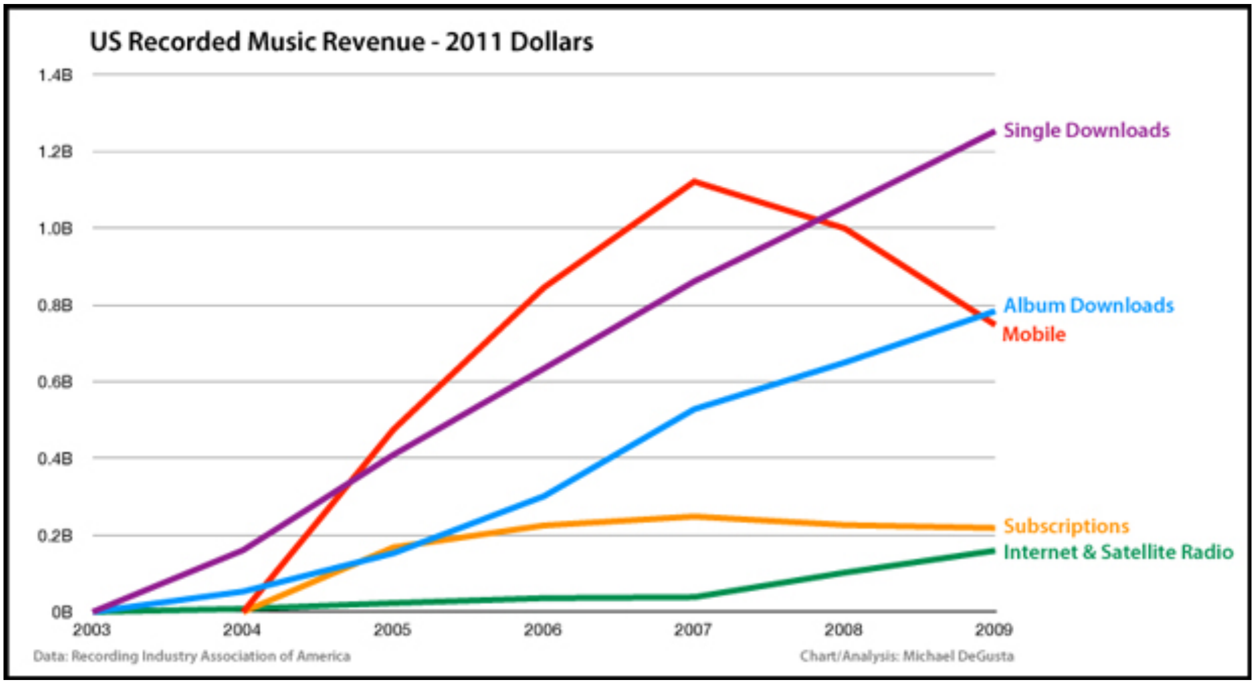
Recording Industry Association of America

That's just over 1 album per person per year now, and only 0.25 downloaded albums per year. Here Mr. Gruber's guess is more on target, though current numbers are still substantially below pre-CD numbers. In addition to piracy and the general lack of interest in buying albums vs singles (see below), it's also possible that consumers' ability to convert CD to digital versus having to rebuy vinyl albums on CD accounts for some of the disparity as well.

What Does The Future Hold?

Let's dig deeper into those precious few newer sources of revenue, all of which were at zero in 2003:

GEO 10



Recording Industry Association of America

Downloaded albums & singles have grown nicely, but we've already established that is not nearly enough to offset the loss of the physical equivalents.

Mobile, which includes "Master Ringtunes, Ringbacks, Music Videos, Full Length Downloads, and Other Mobile", hit its peak in 2007 and has actually been in decline the past 2 years. Looks like the death of the ringtone - and possibly the birth of the iPhone?

Subscriptions – presumably Rhapsody, Zune Pass, and the like — have also drifted downward the past 2 years.

To reiterate what I was very surprised to find: two of the big new areas, mobile and subscriptions, appear to both already be in decline.

That only leaves internet & satellite radio – Pandora, etc — and others that

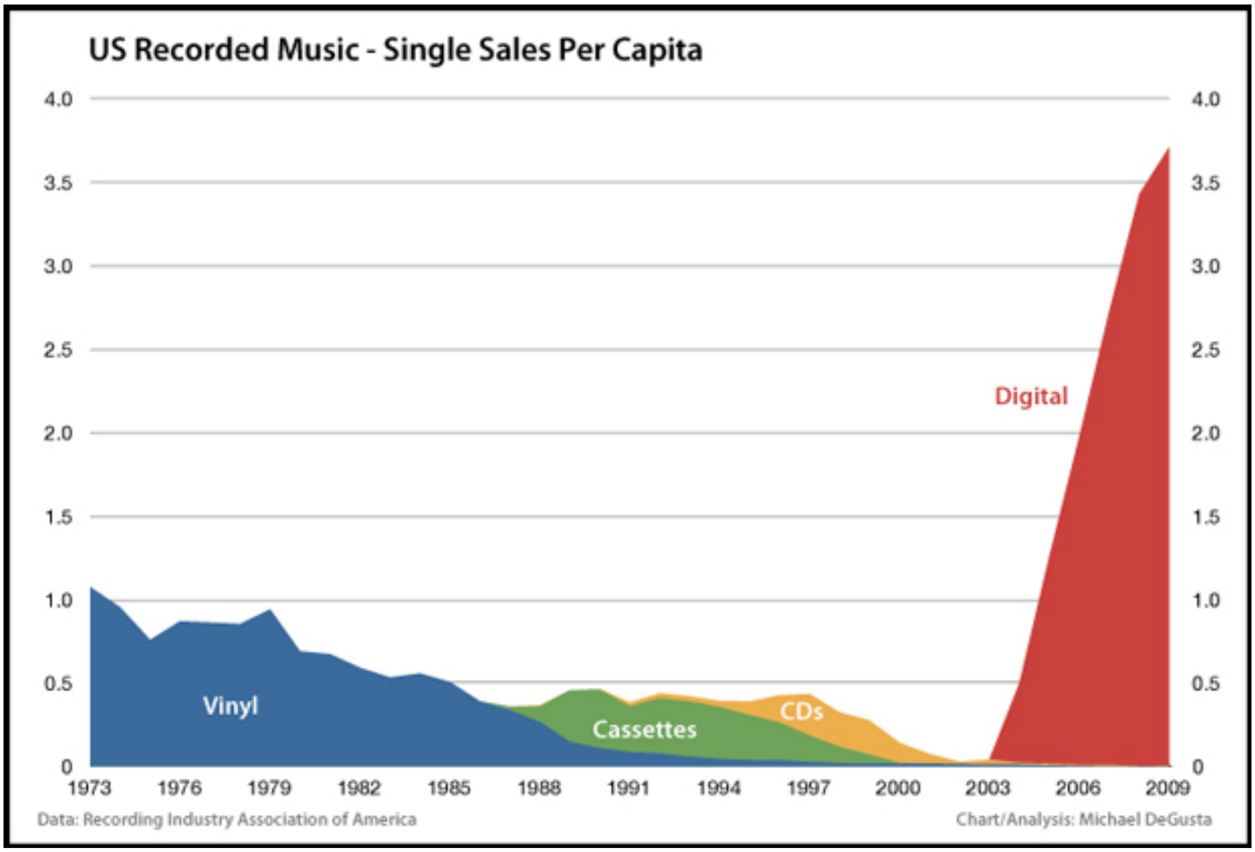
GEO 10

pay via SoundExchange. It had a good uptick since 2007, but that's when they negotiated royalty rates for online broadcasters. Even if they maintain some solid growth, it still adds up to a pittance.

Looks like the smaller and shrinking recorded music industry is here to stay.

A Few Additional Charts

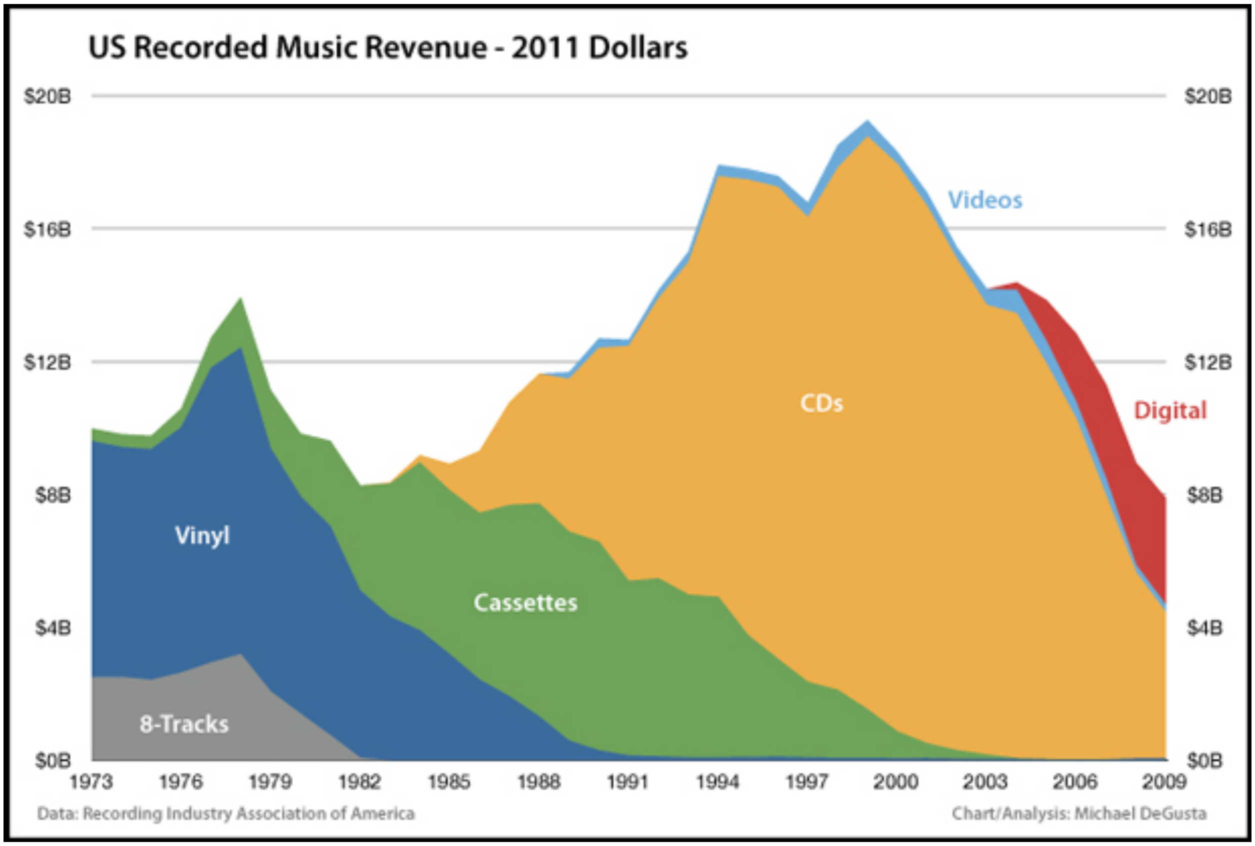
Digital really does appear to have brought about the era of the single:



Recording Industry Association of America

For what it's worth, here is the inflation adjusted (but not population adjusted) version of the revenue chart:

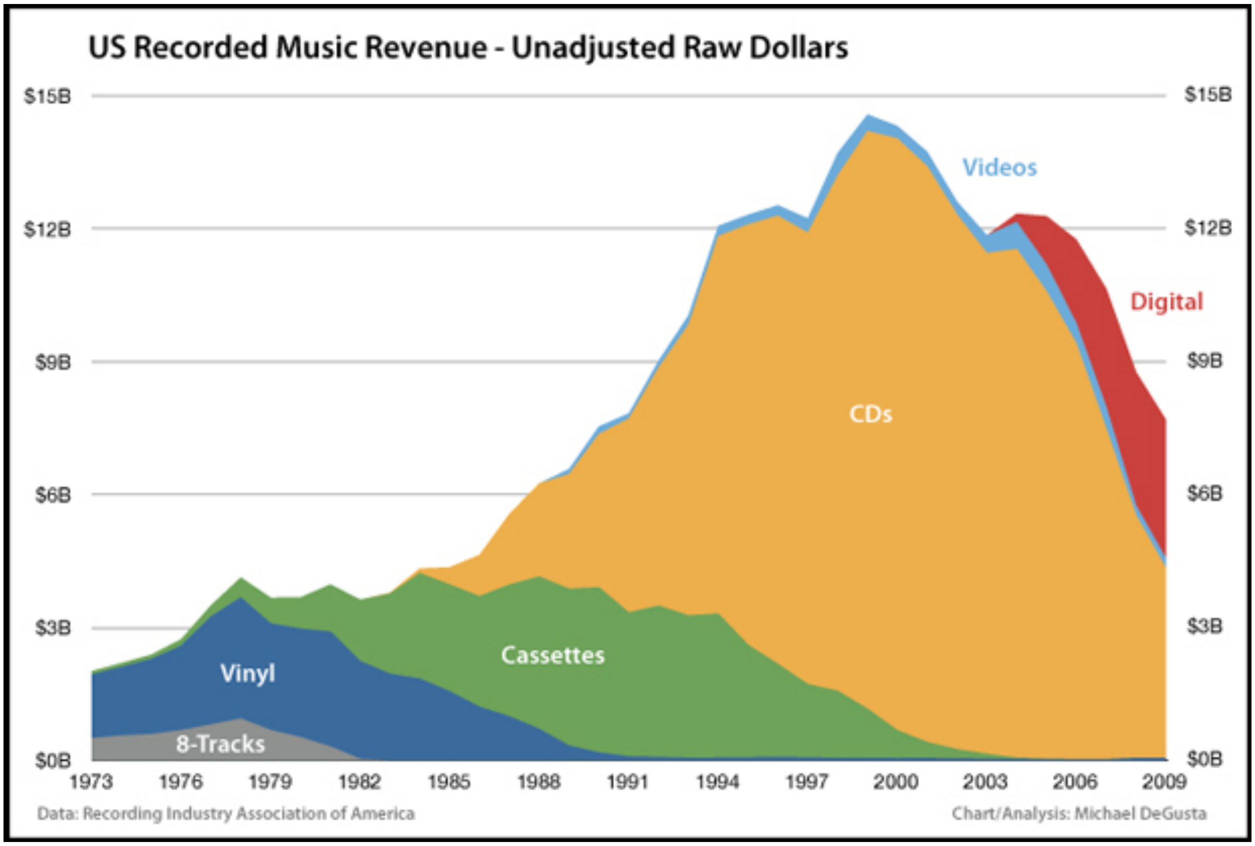
GEO 10



Recording Industry Association of America

Finally, since I couldn't be sure what was and wasn't included in the Bain chart, here's my version of the raw unadjusted revenue numbers:

GEO 10



Recording Industry Association of America

The Gory Details

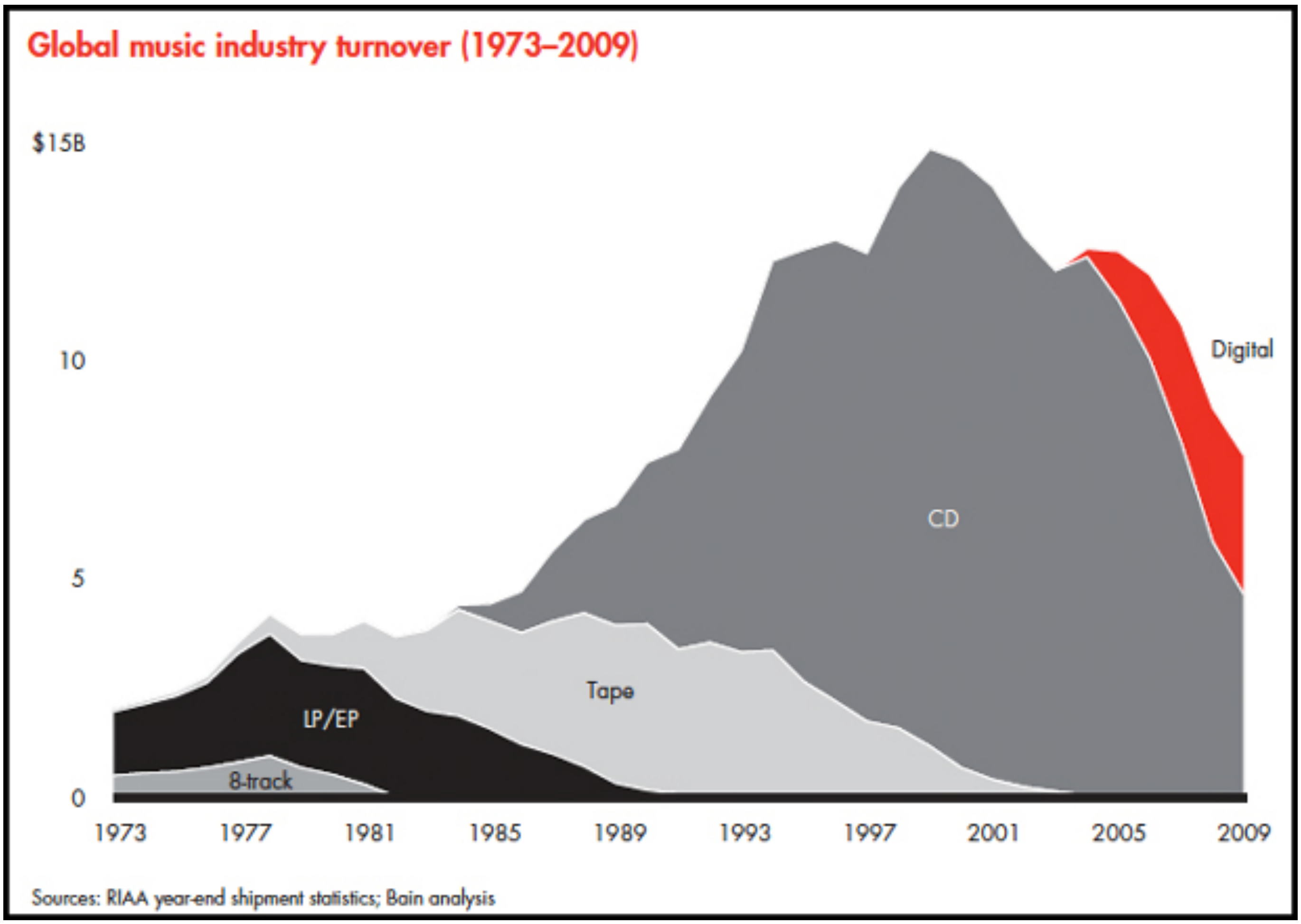
- The population data I used comes from http://www.census.gov/popest/
- The inflation data I used comes from the CPI-U at http://data.bls.gov/cgi-bin/surveymost?cu
- I used 2011 dollars (January 2011, the latest available) because I feel present day dollars provide a better visceral understanding of the sums involved than using some other arbitrary date.
- Here's how I grouped the RIAA categories:
  - 8-Track: Includes "8-Track" & "Other Tapes" (described as "reel-to-reel and quadraphonic")
  - Vinyl: Includes "LP/EP" & "Vinyl Single"
  - Cassettes: Includes "Cassettes" & "Cassette Single"
  - CD: Includes "CD", "CD Single", "DVD Audio", & "SACD"

GEO 10

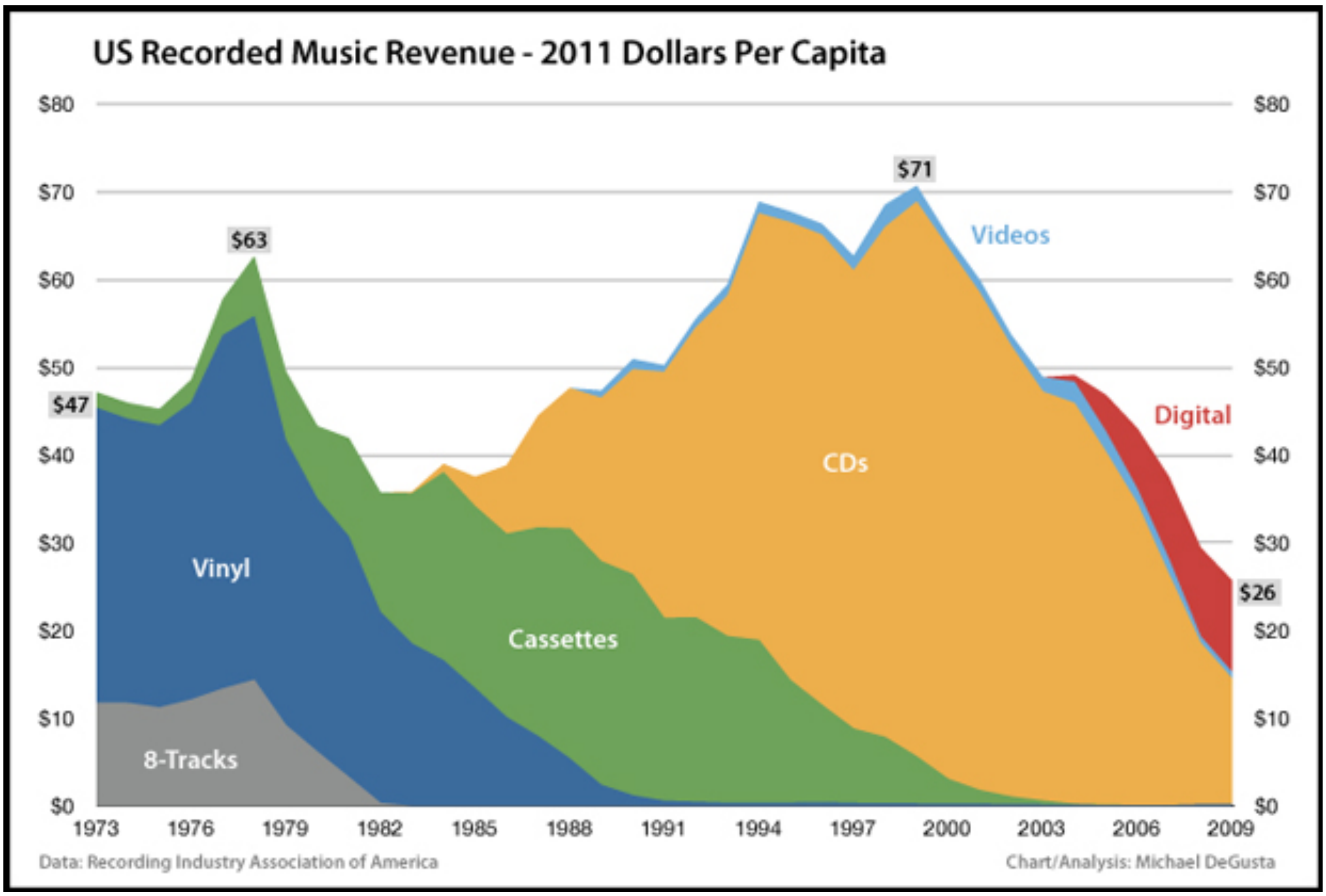
- Videos: Includes "Music Video"
- Digital: Includes "Download Single", "Download Album", "Kiosk", "Download Music Video", "Mobile", "Subscription", & "Digital Performance Royalties" (described as SoundExchange royalties)

1. The RIAA at http://www.riaa.com/shipmentfaq.php: "This database includes year-end shipment statistics for the recorded music industry in the United States going back to 1973"

GEO 11



Global music industry turnover (1973–2009)
$15B
10
5
0
1973
1977
1981
1985
1989
1993
1997
2001
2005
2009
Digital
CD
Tape
LP/EP
8-track
Sources: RIAA year-end shipment statistics; Bain analysis

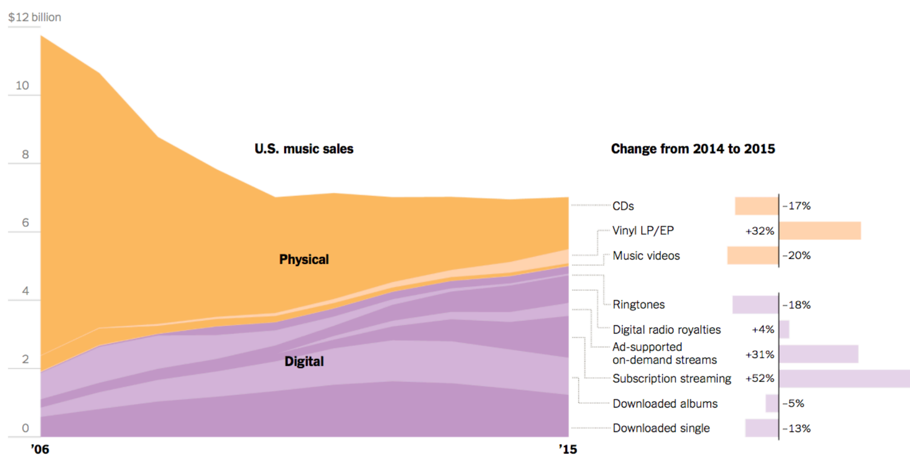

US Recorded Music Revenue - 2011 Dollars Per Capita
$80
$70
$60
$50
$40
$30
$20
$10
$0
$47
$63
$71
$26
Vinyl
8-Tracks
Cassettes
CDs
Videos
Digital
1973
1976
1979
1982
1985
1988
1991
1994
1997
2000
2003
2006
2009
Data: Recording Industry Association of America
Chart/Analysis: Michael DeGusta

GEO 13

MEDIA

In Shift to Streaming, Music Business Has Lost Billions

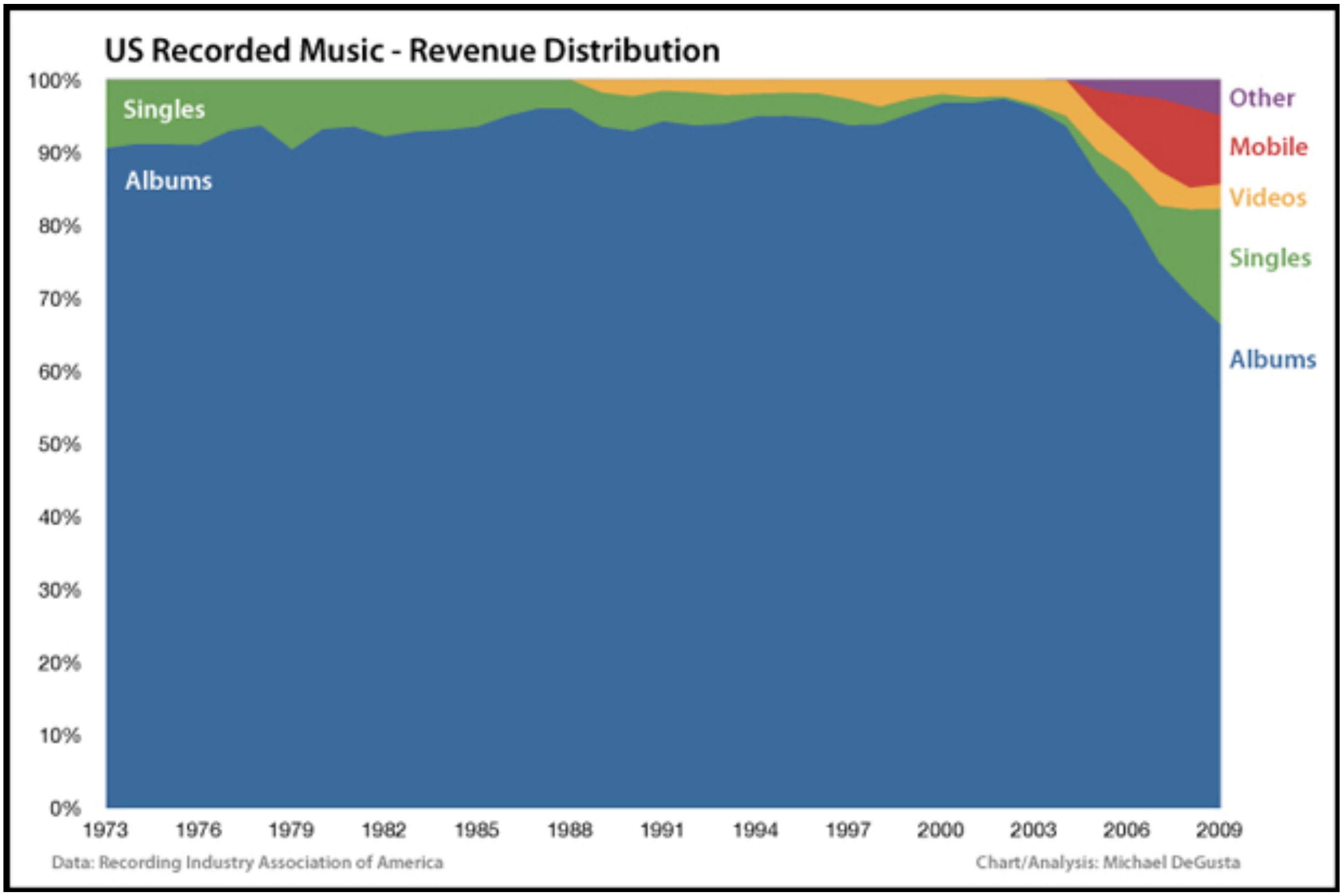
By BEN SISARIO and KARL RUSSELL MARCH 24, 2016



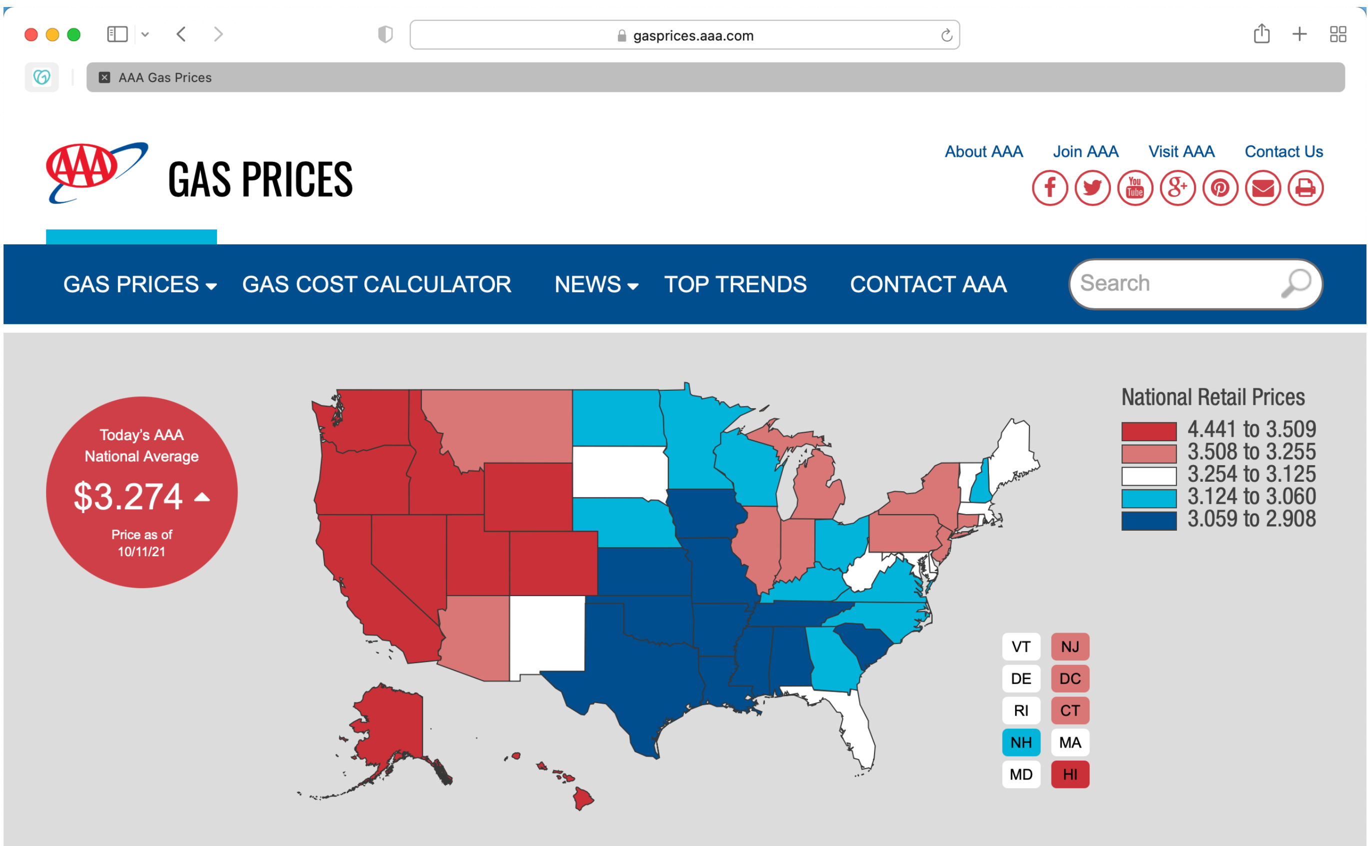
Source: Recording Industry Association of America

By The New York Times

GEO 14


US Recorded Music - Revenue Distribution
100%
90%
80%
70%
60%
50%
40%
30%
20%
10%
0%
Singles
Albums
1973
1976
1979
1982
1985
1988
1991
1994
1997
2000
2003
2006
2009
Other
Mobile
Videos
Singles
Albums
Data: Recording Industry Association of America
Chart/Analysis: Michael DeGusta

GEO 15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About AAA
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GAS PRICES
GAS COST CALCULATOR
NEWS
TOP TRENDS
CONTACT AAA
Search
Today's AAA National Average
$3.274
Price as of 10/11/21
National Retail Prices
4.441 to 3.509
3.508 to 3.255
3.254 to 3.125
3.124 to 3.060
3.059 to 2.908
VT
NJ
DE
DC
RI
CT
NH
MA
MD
HI

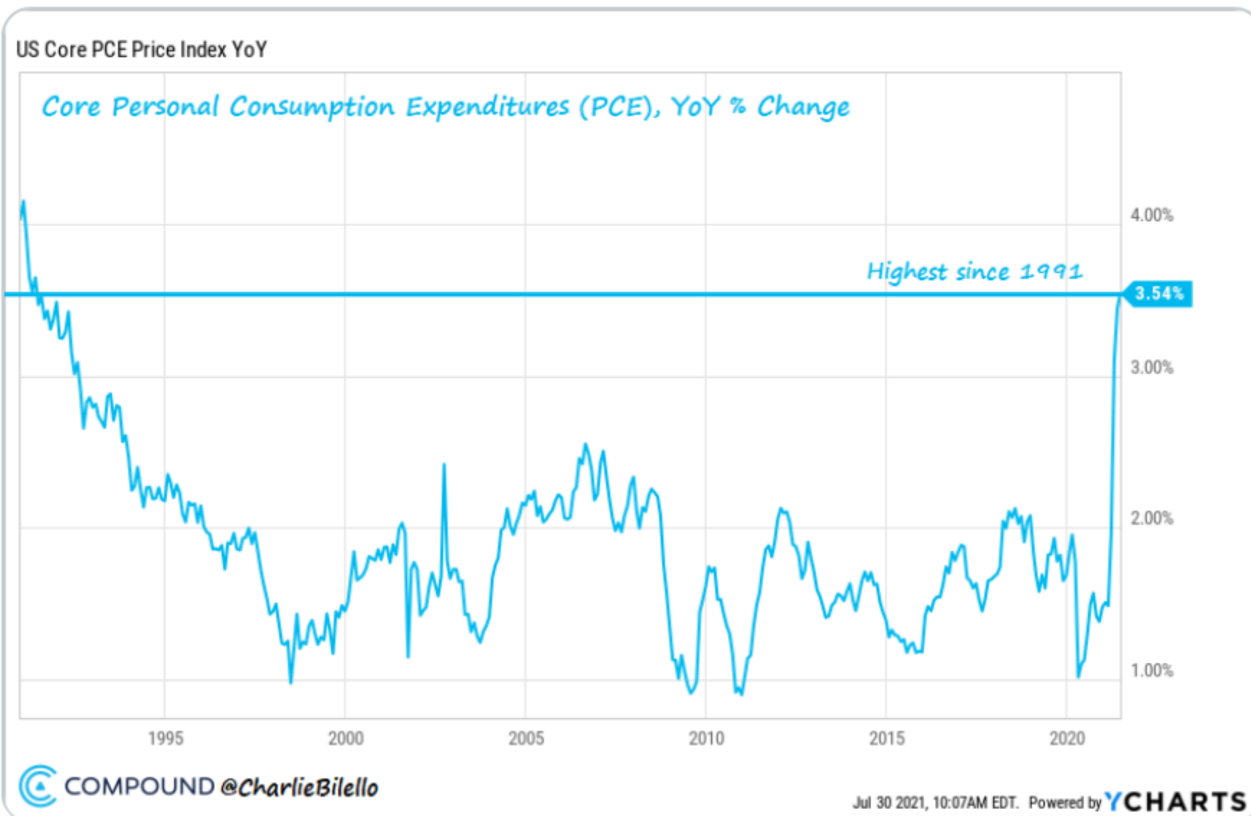
GEO 16

Charlie Bilello
@charliebilello

US Core PCE inflation rises to 3.5%, its highest level since 1991.

“We will not raise interest rates pre-emptively because we fear the possible onset of inflation. We will wait for evidence of actual inflation or other imbalances." - Fed Chair J. Powell

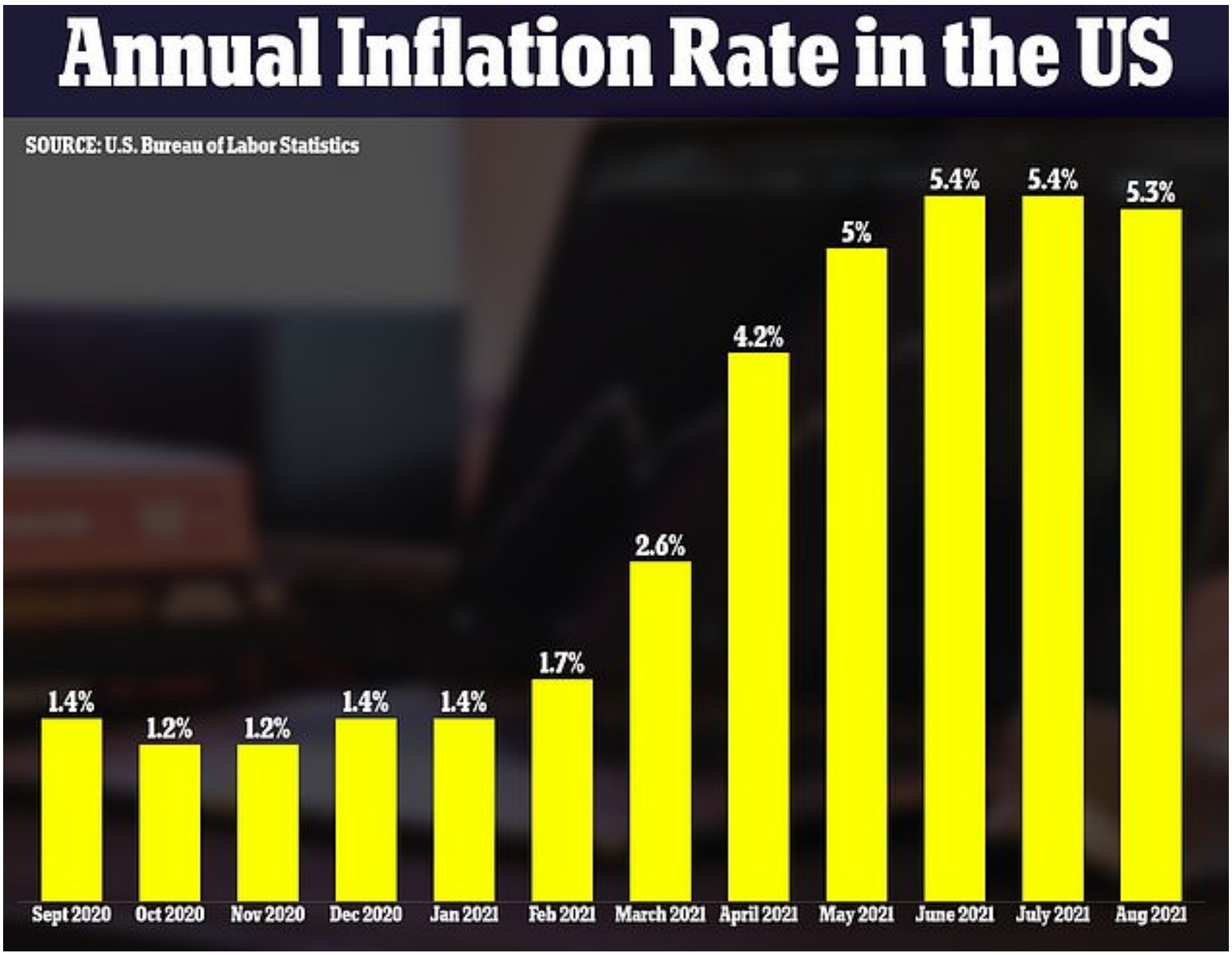
Charting via @ycharts



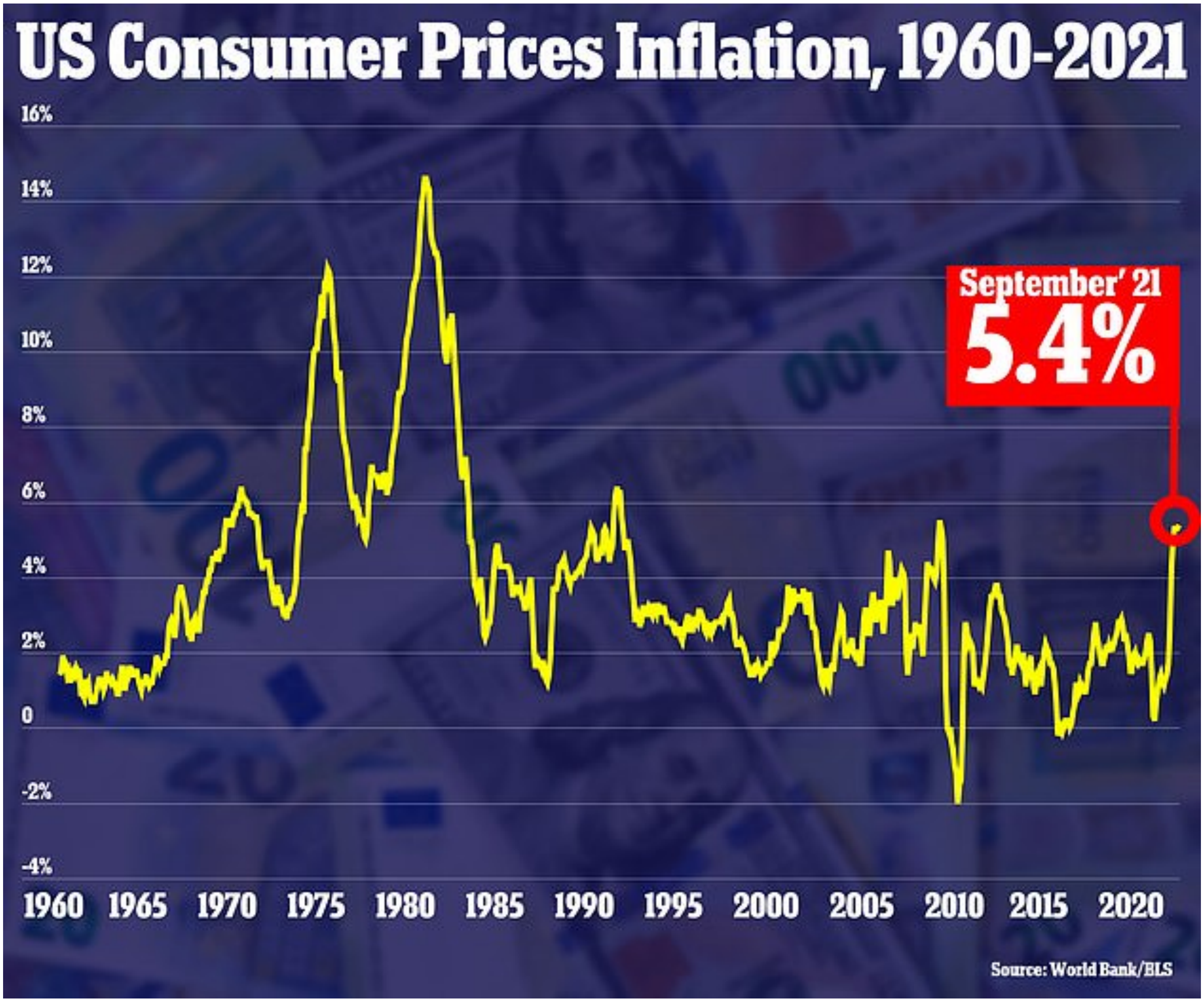
10:13 AM · Jul 30, 2021

91 7 Share this Tweet

GEO 17

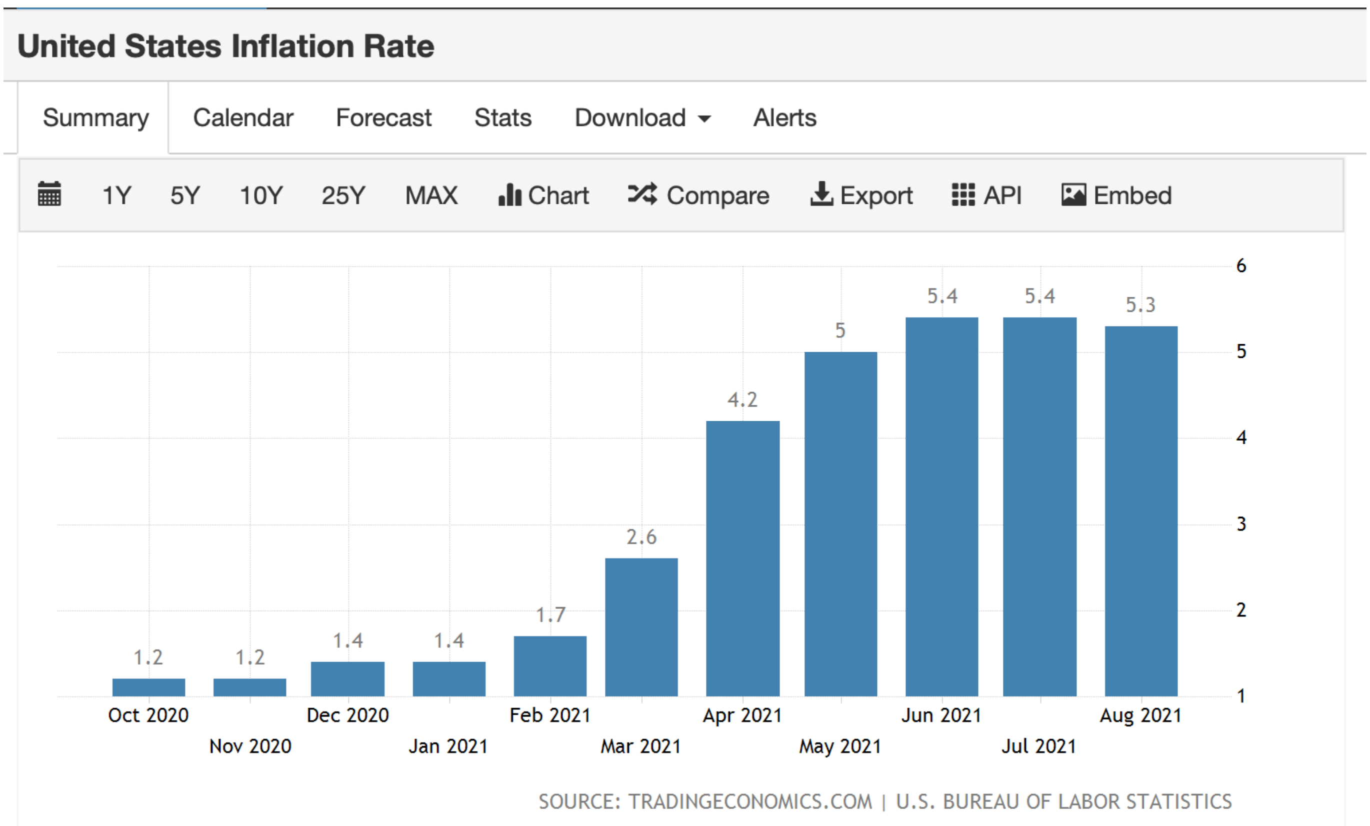

Annual Inflation Rate in the US
SOURCE: U.S. Bureau of Labor Statistics
1.4%
1.2%
1.2%
1.4%
1.4%
1.7%
2.6%
4.2%
5%
5.4%
5.4%
5.3%
Sept 2020
Oct 2020
Nov 2020
Dec 2020
Jan 2021
Feb 2021
March 2021
April 2021
May 2021
June 2021
July 2021
Aug 2021

GEO 18



US Consumer Prices Inflation, 1960-2021
16%
14%
12%
10%
8%
6%
4%
2%
0
-2%
-4%
1960
1965
1970
1975
1980
1985
1990
1995
2000
2005
2010
2015
2020
September' 21
5.4%
Source: World Bank/BLS

GEO 19


United States Inflation Rate
Summary
Calendar
Forecast
Stats
Download
Alerts
1Y
5Y
10Y
25Y
MAX
Chart
Compare
Export
API
Embed
1.2
1.2
1.4
1.4
1.7
2.6
4.2
5
5.4
5.4
5.3
6
5
4
3
2
1
Oct 2020
Nov 2020
Dec 2020
Jan 2021
Feb 2021
Mar 2021
Apr 2021
May 2021
Jun 2021
Jul 2021
Aug 2021
SOURCE: TRADINGECONOMICS.COM | U.S. BUREAU OF LABOR STATISTICS

INFLATION FROM SEPT. 2020 TO SEPT. 2021

BACON	↑ 19%
BEEF	↑ 17%
LETTUCE	↑ 5%
FISH	↑ 7%
MILK	↑ 2%
AIRFARE	↑ 1%
GASOLINE	↑ 42%
DRESSES	↑ 9.5%
HOTELS	↑ 20%
USED CARS	↑ 24%
NEW CARS	↑ 9%

SOURCE: BUREAU OF LABOR STATISTICS, BUREAU OF ECONOMIC ANALYSIS, ICE EXCHANGE

GEO 21

Heather Long
@byHeatherLong

BREAKING: Inflation was up 5.4% over last year in September – the highest rate in 13 years.

Prices rose 0.4% in Sept, up from 0.3% in August

Gas, food and goods continue to be key drivers of inflation. Used car prices fell slightly but remain 24% higher than last year.

Table A. Percent changes in CPI for All Urban Consumers (CPI-U): U.S. city average

	Seasonally adjusted changes from preceding month							
	Mar. 2021	Apr. 2021	May 2021	June 2021	July 2021	Aug. 2021	Sep. 2021	Un-adjusted 12-mos. ended Sep. 2021
All items	.6	.8	.6	.9	.5	.3	.4	5.4
Food	.1	.4	.4	.8	.7	.4	.9	4.6
Food at home	.1	.4	.4	.8	.7	.4	1.2	4.5
Food away from home (1)	.1	.3	.6	.7	.8	.4	.5	4.7
Energy	5.0	-.1	.0	1.5	1.6	2.0	1.3	24.8
Energy commodities	8.9	-1.4	-.6	2.6	2.3	2.7	1.3	41.7
Gasoline (all types)	9.1	-1.4	-.7	2.5	2.4	2.8	1.2	42.1
Fuel oil (1)	3.2	-3.2	2.1	2.9	.6	-2.1	3.9	42.6
Energy services	.6	1.5	.7	.2	.8	1.1	1.2	8.5
Electricity	.0	1.2	.3	-.3	.4	1.0	.8	5.2
Utility (piped) gas service	2.5	2.4	1.7	1.7	2.2	1.6	2.7	20.6
All items less food and energy	.3	.9	.7	.9	.3	.1	.2	4.0
Commodities less food and energy commodities	.1	2.0	1.8	2.2	.5	.3	.2	7.3
New vehicles	.0	.5	1.6	2.0	1.7	1.2	1.3	8.7
Used cars and trucks	.5	10.0	7.3	10.5	.2	-1.5	-.7	24.4
Apparel	-.3	.3	1.2	.7	.0	.4	-1.1	3.4
Medical care commodities (1)	.1	.6	.0	-.4	.2	-.2	.3	-1.6
Services less energy services	.4	.5	.4	.4	.3	.0	.2	2.9
Shelter	.3	.4	.3	.5	.4	.2	.4	3.2
Transportation services	1.8	2.9	1.5	1.5	-1.1	-2.3	-.5	4.4
Medical care services	.1	.0	-.1	.0	.3	.3	-.1	.9

1 Not seasonally adjusted.

8:31 AM · Oct 13, 2021

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GEO 22

An official website of the United States government Here is how you know

U.S. BUREAU OF LABOR STATISTICS

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- FAQS
- SPECIAL NOTICES
- MORE SOURCES OF DATA

CPI Inflation Calculator

CPI Inflation Calculator

$ 0.02

in January 1913

has the same buying power as

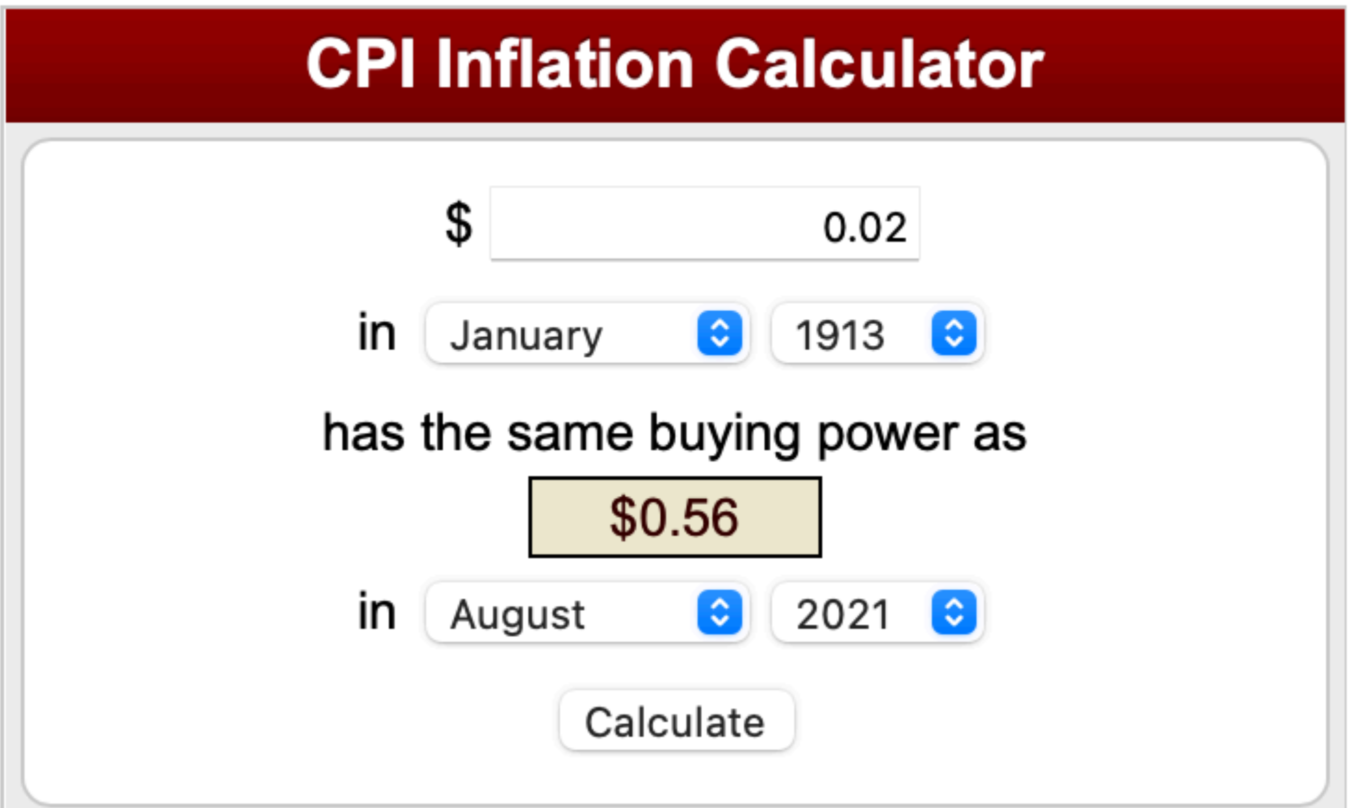
$0.56

in August 2021

Calculate

Mobile Browser? View full screen.

GEO 23


CPI Inflation Calculator
$ 0.02
in January 1913
has the same buying power as
$0.56
in August 2021
Calculate

GEO 24

Frozen Mechanicals: A Brief History

June 11, 2016

In case you missed it, songwriters are currently in a rate court at the Copyright Royalty Board (Copyright Royalty Judges) to set the compulsory mechanical royalty rate for songs. All the interested parties are participating in the rate court to persuade the technocrats at the Copyright Royalty Board of what a free market rate would be for mechanicals. (The shorthand for the hearing is "Phonorecords III" or the Determination of Rates and Terms for Making and Distributing Phonorecords. Docket No. 16-CRB-0003-PR (2018-2022).)

Don't miss the irony about Phonorecords III–there has *never* been a free market for mechanical royalties under a compulsory license. This makes the entire enterprise yet another laughable rule imposed on songwriters with the government's boot on our throats.

David has already taken issue with the National Music Publishers Association on this, so here's some more color commentary on why David is right and why the "settlement" is yet another real puzzle that seems to benefit the wrong people.

Frozen Mechanicals

If you're a songwriter born after 1975 and are not a student of history, then the name Hoyt Axton probably doesn't mean much to you. You may not fully realize the long-term harm of frozen mechanical rates. You also probably don't realize that the main reason that the compulsory license rate is so low at 9.1¢ is primarily because of the extraordinarily low rates that came before it–from 1909 to 1977 the government set the "free market" compulsory mechanical royalty at 2¢.

That's right–***the government froze the compulsory mechanical rate at 2¢ for 68 years. And we let them do it.***

Let that sink in.

Songwriter activist Hoyt Axton (who wrote *Joy to the World* among other massive hits) made it his business to put a stop to this frozen rate imposed on songwriters by the awesome power of the U.S. government–and lobbyists, of course. We all stand on his

GEO 24

shoulders.

After tremendous effort and years of fighting, the mechanical rate was not increased, but it was indexed to inflation (the Consumer Price Index) in the 1976 revision of the U.S. Copyright Act. The rate began to gradually increase due to the indexing. (But indexing really just preserves buying power. While it is better than a cut, indexing is a sop for the government wanting you to think they are actually giving you something that improves your life.)

That indexing to CPI started in 1978 with the 2¢ rate on a go forward basis rather than a retroactive increase to 1909 which would have been the fair thing to do. We're not blaming Hoyt Axton, he did the best he could under the circumstances.

If the rate had been indexed to 1909, the current rate would be something like 48¢–and that is no actual increase in value, just matching the buying power of 2¢ in 1909 to the same value in 2016 in current dollars according to the Bureau of Labor Statistics.

But–that indexing stopped in 2006 for reasons that are unclear. That's why the mechanical rate has been frozen at 9.1¢ for ***ten years***. These frozen rates have an indirect relative impact on all other statutory rates. When the government freezes wages but imposes a compulsory license, they also identify songwriters as a class of people who the government has decided are not entitled to negotiate for any value-based increase in their compensation.

Here's something else about the mechanical rate. Even with the government's boot on our throats, the rate has never been *cut* in over 100 years. It may not have increased, and as David points out the rate has *effectively* been cut by stopping the indexing. Had the 9.1¢ rate been indexed it would now be approximately 11¢–which is why David says 9.1¢ in 2006 dollars is actually not worth 9.1¢ in current dollars…because it isn't.

Even so, for all of the government overreach and oppression of songwriters, the government never *actually CUT* our mechanical royalty in over 100 years. If the government ever did, we like to think that songwriters would revolt.

The Current Crisis

Given the secrecy surrounding the NMPA's "settlement" with two major publishers that was announced via Billboard, it's hard to know what is what with the NMPA's "settlement."

GEO 24

Here's what we have been able to determine so far:

Who is Against Us: According to Billboard: "A list of petitions to participate in the rate setting proceeding at the CRB website shows mostly digital services like **Rhapsody, SoundCloud, Spotify, Pandora, Omniphone, Google, Deezer, Apple, Amazon and the Digital Media Association**." The Digital Media Association is the locus of evil when it comes to fair treatment for songwriters–its members include Google, Amazon, Apple, Rhapsody, Slacker, Microsoft and Pandora. ***All of these companies and organizations are out to cut the mechanical rate to songwriters***.

The First Cut is the Deepest: Apparently, the negotiating team is afraid that mechanicals will be cut for streaming services. This is because of the BS argument that these services make that they cannot make a profit due to high payouts of royalties. They can afford a $300,000,000 debt, but they can't afford to pay fair royalties.

We know by looking at their financials is that the reason they can't make a profit is because they overpay executives and have expensive offices, plus they are expanding too fast (especially Spotify). Pandora and Spotify have also taken on massive debt for which they are overpaying. Anyone with a passing acquaintance with stock analysis could figure this out.

Lack of profit at digital services is NOT because of royalty payments and it *definitely* is NOT because of ***songwriter*** royalties. Spotify, Rhapsody and Google are being sued for NOT paying songwriters, so it can't be that.

If mechanicals were cut, that would be the first time in 100 years that there was an actual cut. Who in the music industry leadership wants to be the goat who presided over the government's first actual cut in songwriter royalties?

What's Good for the Goose: We are at a loss to understand why freezing the already frozen mechanicals for record companies until 2022 is going to better the bargaining position against digital services. Wouldn't that strengthen the services' argument that they should at least be treated the same as record companies and have their streaming mechanicals frozen, too? Or that they should get a cut because see, the record companies can't afford those expensive songwriters either!

This is How Rates Stayed Frozen for 60 Years: Remember–the current mechanical rate has already been frozen for 10 years. In Phonorecords III, the rate will be frozen until

2022 for a total of 16 years. And you wonder how the rates stayed at 2¢ from 1909 to 1976? Because someone let them stay frozen.

GEO 24

There's an easy answer to why the government set songwriter wages with no increase for 60 years. They didn't do that to anyone else they tell what they can charge for their work.

The government got away with it because nobody fought back.

GEO 25

OPINION | POLITICS & IDEAS

What if Inflation Is Here to Stay?

Are price increases transitory? Some of the factors driving them certainly aren't.

By William A. Galston
Sept. 28, 2021 3:25 pm ET

An employee walks through a semiconductor manufacturing facility in Malta, N.Y., March 16.
PHOTO: ADAM GLANZMAN/BLOOMBERG NEWS

Americans are worried about inflation. This was the No. 1 economic concern expressed in a recent survey from the Pew Research Center. Some 63% say they are "very concerned" about rising prices, especially for food and consumer goods, compared with only 29% who are very concerned that Americans won't be able to find work.

This focus on higher prices is easy to explain. Consumer inflation is running above 5%, wiping out nominal wage gains for low-income workers. The Labor Department reports that businesses investing in their long-term production capacity are facing the largest price hikes since 1982.

The official position of the Federal Reserve Board and the Biden administration is unchanged: This inflationary spurt is transitory and will abate next year to a more sustainable growth around 2%, at or near the Fed's target. They admit that inflation has pushed higher and lasted longer than they expected but say that as the U.S. emerges from economic distortions created by the pandemic, high inflation will fade from view.

Maybe they're right. But it's important to consider the factors pointing in the opposite direction. Many represent structural changes in the U.S. and world economy.

GEO 25

The Federal Reserve pays careful attention to the public's expectations about the future rate of inflation; these expectations shape behavior and can become self-fulfilling prophecies. The goal is to have these expectations "anchored" at around 2%. But according to the New York Fed's August survey, consumers expect inflation to run at 5.2% in the coming year and at an average of 4% for the next three years.

Transfers to individuals during the pandemic fed a huge increase in personal savings, and this pent-up demand is bumping up against supply-side limits. Home and apartment builders, for instance, face not only a shortage of skilled workers but also zoning and regulatory codes that limit their ability to build and renovate in places where Americans want to live. No surprise, then, that home prices and monthly rentals are soaring, with Fannie Mae predicting shelter inflation at 4.5% or more for years to come.

Job openings across the economy are at a record. With total employment still 5.6 million below February 2020, this shortage might seem anomalous. But during the pandemic, many workers over 60 decided to retire early, and most won't reconsider. The number of workers unemployed for six months or more is three times what it was 18 months ago. Those with rusty skills may be slow to come back to the job market. Some never will.

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The workers who do return will face new obstacles, including a mismatch between skills and jobs. The post-pandemic economy is demanding more workers in transportation and warehousing, while needing fewer in food service. Resolving such mismatches will take time, even if retraining programs work well, which they often don't. And looking further down the road, the rate of increase in the labor force has slowed to a trickle, as has the flow of new immigrants, who have been essential to bolstering the labor force.

Then there are shortages of semiconductors, which have become key components of automobiles and electronics. Most auto makers have announced production cuts, leading to shortages at car dealers and high prices for consumers. There are no closed plants to reopen; the world's semiconductor industry is running at capacity, and dependence on production in China and Taiwan is increasing. Building new production facilities to this industry's exacting specifications will be costly and time-consuming, as will shifting new production capacity to mitigate rising risks of depending on China.

Semiconductors are part of a larger story. In recent decades, corporations have become dependent on global supply chains to keep the prices of labor and materials down and to maintain lean inventories, further reducing costs. The pandemic, protectionism and

GEO 25

global tensions are forcing them to reconsider this strategy. But moving away will take time and raise costs.

Meanwhile, the global supply chain itself has become a bottleneck, as a recent Journal report notes. Ships are waiting offshore to unload as containers pile up in ports. Shortages of equipment, trucks, drivers and warehouses are slowing the movement of goods from ports to businesses. Requiring employees to work overtime raises labor costs, spurs resignations, and often bumps up against safety and union requirements.

Amid the vortex of these developments, businesses—from Costco and FedEx to neighborhood restaurants—have been able to pass the higher prices they are paying for goods and services on to consumers without encountering resistance or losing market share.

You don't need a doctorate in economics to understand that when rising demand meets too little supply, the result is inflation. If structural changes turn out to be the main cause, Americans shouldn't expect the consequences—higher prices at the store—to be "transitory."

Appeared in the September 29, 2021, print edition.

GEO 26

ECONOMY | THE OUTLOOK

Higher Inflation Is Here to Stay for Years, Economists Forecast

Strong economic rebound and lingering pandemic disruptions fuel inflation forecasts above 2% through 2023, survey finds

The U.S. could be headed for several years of higher inflation than households and investors have seen since the early 1990s, economists surveyed by The Wall Street Journal forecast.

PHOTO: SCOTT OLSON/GETTY IMAGES

By [Gwynn Guilford] and [Anthony DeBarros]
July 11, 2021 9:00 am ET

Americans should brace themselves for several years of higher inflation than they've seen in decades, according to economists who expect the robust post-pandemic economic recovery to fuel brisk price increases for a while.

Economists surveyed this month by The Wall Street Journal raised their forecasts of how high inflation would go and for how long, compared with their previous expectations in April.

The respondents on average now expect a widely followed measure of inflation, which excludes volatile food and energy components, to be up 3.2% in the fourth quarter of 2021 from a year before. They forecast the annual rise to recede to slightly less than 2.3% a year in 2022 and 2023.

That would mean an average annual increase of 2.58% from 2021 through 2023, putting inflation at levels last seen in 1993.

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"We're in a transitional phase right now," said Joel Naroff, chief economist at Naroff Economics LLC. "We are transitioning to a higher period of inflation and interest rates than we've had over the last 20 years."

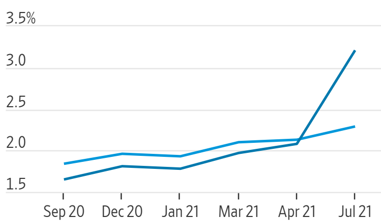
The inflation measure—the Commerce Department's core price index of personal-consumption expenditures—jumped 3.4% in May from a year earlier, the biggest increase since the early 1990s.

Swift Ascent

Economists' 2021 inflation forecast has increased sharply as the U.S. recovers from the Covid-19 pandemic.

Core personal-consumption expenditures index forecast in each survey month

Full Year 2021 (4Q/4Q)
Full Year 2022 (4Q/4Q)



Source: Wall Street Journal Economic Forecasting Survey

What Mr. Naroff and the other survey respondents describe is a generational shift from the lower inflation of the past two decades, a shift that could create new challenges for households, policy makers and investors who came to expect inflation closer to or below 2%.

If the economists prove correct, Federal Reserve officials might have to raise rates sooner or more than they expect to keep inflation under control.

The Fed's preferred inflation gauge—the overall PCE index, which includes food and energy prices—rose 3.9% in May, nearly double the central bank's 2% target. The Fed, in a report released Friday, repeated its view that inflation has picked up this year due to bottlenecks, hiring difficulties and other "largely transitory factors" related to the economy's rebound from the effects of the pandemic. Most officials, in projections released last month, believed inflation would decline to around 2% over the next two years, though there was greater uncertainty over how quickly they might need to raise interest rates to get inflation there.

At the Fed's June policy meeting, most officials projected they would raise interest rates from near zero by 2023. Several expected to raise rates next year. In March, most officials expected to hold rates steady through 2023.

Some 58% of the economists surveyed don't see the Fed raising interest rates until the second half of 2022 or later.

"Inflation is expected to surge longer and longer—longer than the Fed previously thought," said Diane Swonk, chief economist at Grant Thornton. "The Fed is now likely to raise rates in the first half of 2023, although some Fed presidents will be nipping at the bit to move sooner."

Some respondents worry the Fed could move too slowly. "The danger is that monetary authorities are behind the curve," said Kevin Swift, chief economist at the American Chemistry Council. "I'm not saying hyperinflation is around the corner, just that a lot of

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things have come together in the last year, and the overall trend of costs across the board is growing faster than in the last five or 10 years."

Core PCE inflation rose just 1.7% annually, on average, between 1995 and 2019. Now the Fed wants inflation to overshoot 2% for a while to make up for that shortfall.

Another key measure of inflation, the Labor Department's consumer-price index, which tends to run hotter than the PCE index, leapt 5% in May from a year before, the most in nearly 13 years. Survey respondents expect the department to report Tuesday that the CPI rose 4.7% in June from a year before. They expect the rate to fall to 4.1% by year's end. Their CPI forecasts for next year and 2023 hover between 2.4% and 2.7%.

Supply-chain bottlenecks, higher shipping costs and labor shortages might prove temporary as the market adjusts to disruptions. However, the combination of plentiful federal stimulus funding, an unprecedented stockpile of household savings and the rollout of vaccines is driving a surge in consumer demand, enabling many businesses to raise prices significantly for the first time in decades. If households and businesses start to expect rising prices, that dynamic can become self-fulfilling.

There are signs that consumers are starting to anticipate higher inflation. Consumer inflation expectations—the rate of inflation the median consumer expects five to 10 years from now—climbed to 2.8% in June, about the same rate as in 2014, according to the University of Michigan Survey of Consumers.

SHARE YOUR THOUGHTS

Has your outlook on the economy changed recently? Why or why not? Join the conversation below.

Higher inflation for several years would ripple through the economy in various ways. Consumers could find their household budgets squeezed. Higher borrowing costs could weigh on stock values and could crimp growth in interest-rate-sensitive industries like housing. Higher inflation can also make it harder for businesses to plan longer-term investments.

"It's disruptive—you can't be sure of what your costs are, whether you can get supplies or what the costs will be six months from now," Mr. Swift said. "I'd hate to be in the construction business trying to bid on a job when you don't know what the cost of steel will be 18 months from now."

The Wall Street Journal survey of 64 business, academic and financial forecasters was conducted July 2-7. Not all participants responded to every question. The survey archives and forecast data can be found here.

Write to Gwynn Guilford at gwynn.guilford@wsj.com and Anthony DeBarros at Anthony.Debarros@wsj.com

Appeared in the July 12, 2021, print edition as 'Economists Raise Inflation Forecasts.'

GEO 27

Inflation, Supply-Chain Disruptions, Dysfunction In Washington And A New Workers' Mindset Contributed To A Disappointing September Jobs Report

Jack Kelly 10:31am EDT

High inflation, supply-chain disruptions, nonconstructive partisan rhetoric in Washington, D.C. and ... [+]

getty

High inflation, supply-chain disruptions, nonconstructive partisan rhetoric in

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Washington, D.C. and a surge in the spread of the Delta variant led to a disappointing jobs report for September. The Department of Labor said that employment only rose by 194,000 in September, as opposed to an anticipated increase of 500,000 new jobs.

Announcing the data in real time, CNBC reporter Steve Liesman said, "That is real low." Liesman added, "It was weaker than expected."

The unemployment rate declined to 4.8%, while the expectation was for it to be around 5.1%. Making up for some of the enormous job losses during the beginning of the virus outbreak, the leisure and hospitality sector, representing roles in restaurants, bars, hotels and travel, once again led job creation. About 74,000 jobs were added in this area. Other drivers of growth were seen in professional and business services, which added 60,000 new jobs, and retail saw a boost of 56,000 hires. There was a nearly 125,000 drop in government payrolls.

A major problem for many Americans is the staggering amount of people who have been unemployed for over 27 weeks or longer. Nearly 3 million people have been without a job for over six months. This represents 34.5% of the total unemployed in September.

Experts point to the continued spread of the Delta variant as an inhibitor of job growth. Although there are nearly 11 million jobs available, the highest on record, the Labor Department's numbers suggest that people are not actively hunting for or accepting job offers.

The labor force participation dropped down to 61.6% from 61.7%. This indicates that potential unemployed job seekers are pulling themselves out of the interview process. Without open roles being filled, it could delay the full recovery of the economy. The U.S. has about 5 million fewer jobs in August compared with February 2020.

GEO 27

In addition to people being concerned about catching Covid-19, job applicants are sitting on the sidelines because of childcare challenges. Another big factor is a change in mindset of workers.

The "Great Resignation" trend had millions of people quit their jobs. They are making a statement. People are sick and tired of working in dead-end jobs, suffering with too-demanding bosses, low wages and shabby treatment. They'd rather take their time and find a job that offers more money, some meaning, fulfillment and a sense of purpose.

GEO 28

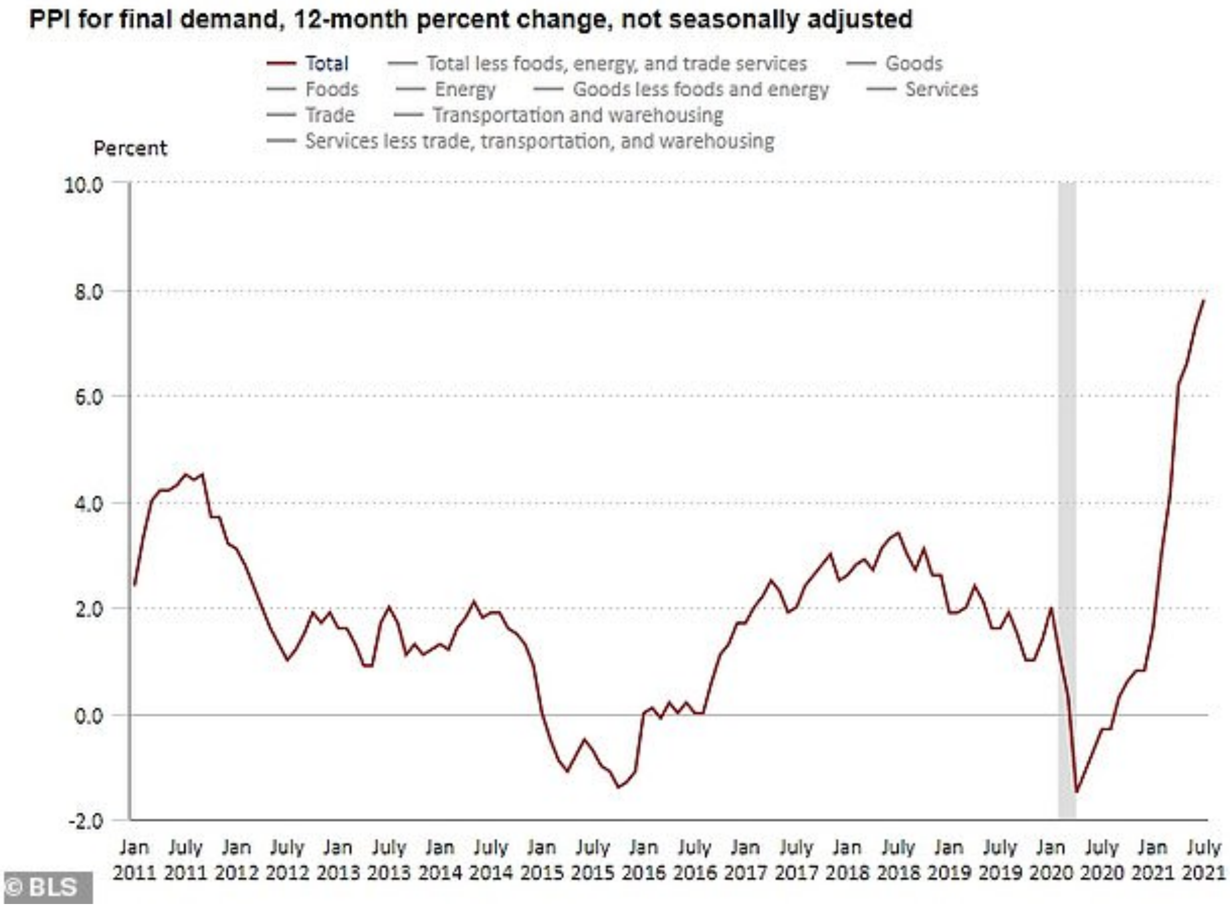
Wholesale prices soar 7.8% in the biggest surge on record

Wholesale prices rose at the fastest rate on record in July in another troubling inflation signal, raising fears that more companies will have to pass on higher costs to consumers.

The producer price index for final demand, which tracks inflation pressure before it reaches consumers, jumped 7.8 percent for the 12 months ended in July, the largest advance since annual data were first calculated in November 2010.

On a monthly basis, the index jumped 1 percent from June, the second straight month of a 1 percent increase, the Labor Department said on Thursday.

It comes a day after the government said consumer prices rose 5.4 percent on the year in July, the same rate as June, while debate rages about whether soaring inflation will be temporary as the Federal Reserve and White House insist.



The producer price index for final demand, which tracks inflation pressure before it reaches consumers, jumped 7.8 percent for the 12 months ended in July

Steelworkers attend to rolled steel at Lehigh Heavy Forge in June. Prices for cold rolled steel sheet and strip rose 22.9 percent annually in July, driving up costs for manufacturers

Many companies have already begun passing on high costs to consumers. The burger chain Shake Shack plans to raise its prices by 3 percent to 3.5 percent in the final three months of the year, executives said on an investor conference call.

Unilever, the maker of Dove soap and Ben and Jerry's ice cream, has said it will raise some prices to offset higher raw materials costs.

And Yum Brands, which owns KFC and Taco Bell, said late last month that its franchisees have implemented 'moderate' price increases.

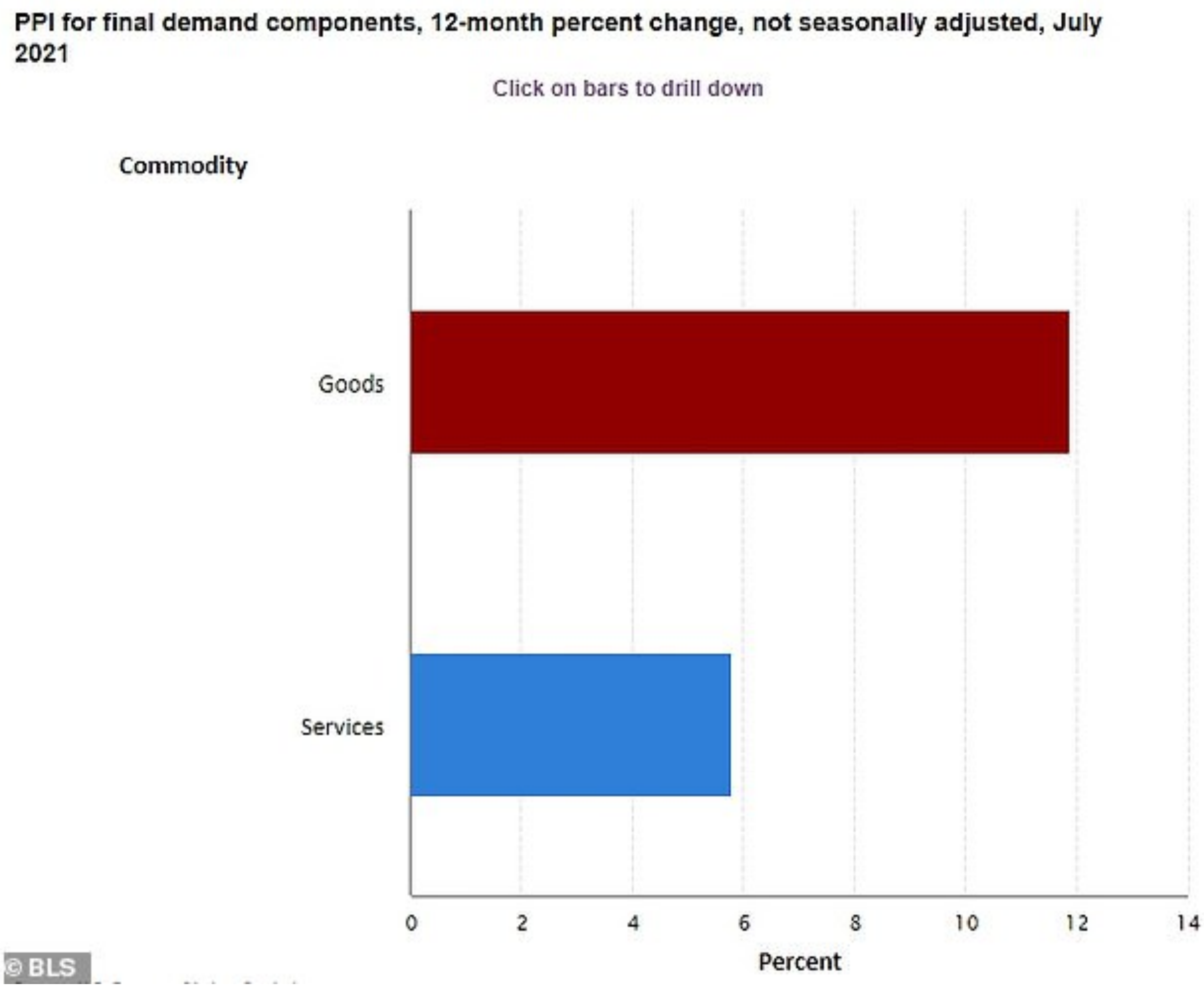
July's 1 percent monthly wholesale price uptick exceeded the 0.6 percent gain many economists had expected.

It signaled the price surge that has lifted the cost of everything from airline tickets and hotels to food and gasoline, has pushed prices well above the 2 percent inflation target set by the Federal Reserve.

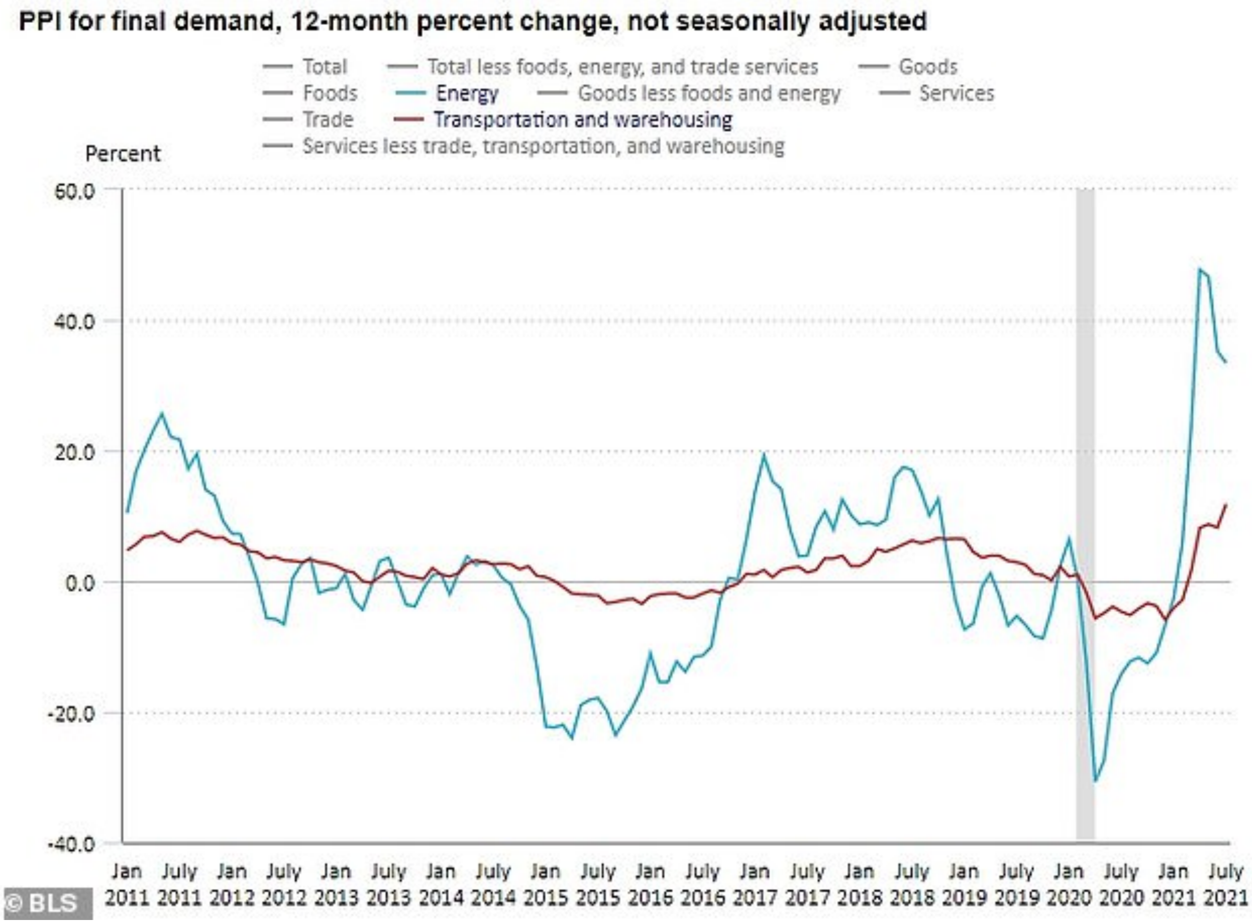
Core inflation at the wholesale level, which excludes volatile food and energy costs, also rose 1 percent in July. Core prices over the past 12 months are up 6.2 percent.

The index that tracks processed goods for intermediate demand -- or goods that are used in the production of consumer products -- soared 22.9 percent in the 12-months ending in July, the largest 12-month rise since February 1975.

A fifth of that increase was due to a 22.9-percent increase in prices for cold rolled steel sheet and strip.



The annual increase in wholesale prices was driven up mostly by goods, but services drove the monthly increase over June levels



The annual price changes in wholesale energy (blue) and transportation (red) prices helped push up the overall index

'Price metrics continue to be impacted by pandemic-related effects including strong demand and supply constraints,' said Rubeela Farooqi, chief U.S. economist at High Frequency Economics.

'The reopening impact should diminish over coming months but there is less certainty about supply dislocations, which could be exacerbated due to spread of the delta variant.'

Nearly three-fourths of the 1 percent July increase in wholesale prices were generated by the rising cost of services, which rose 1.1 percent.

There were hefty gains in margins for autos and auto parts, which jumped

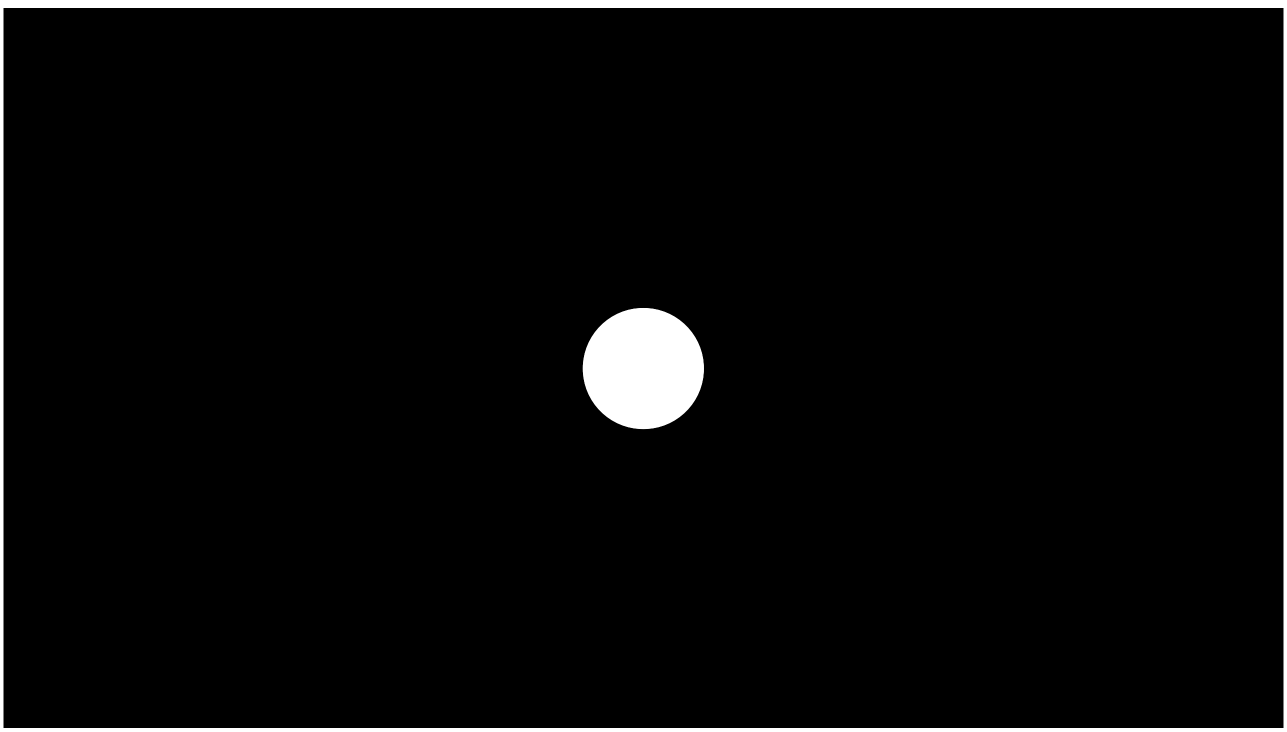
11.2 percent.

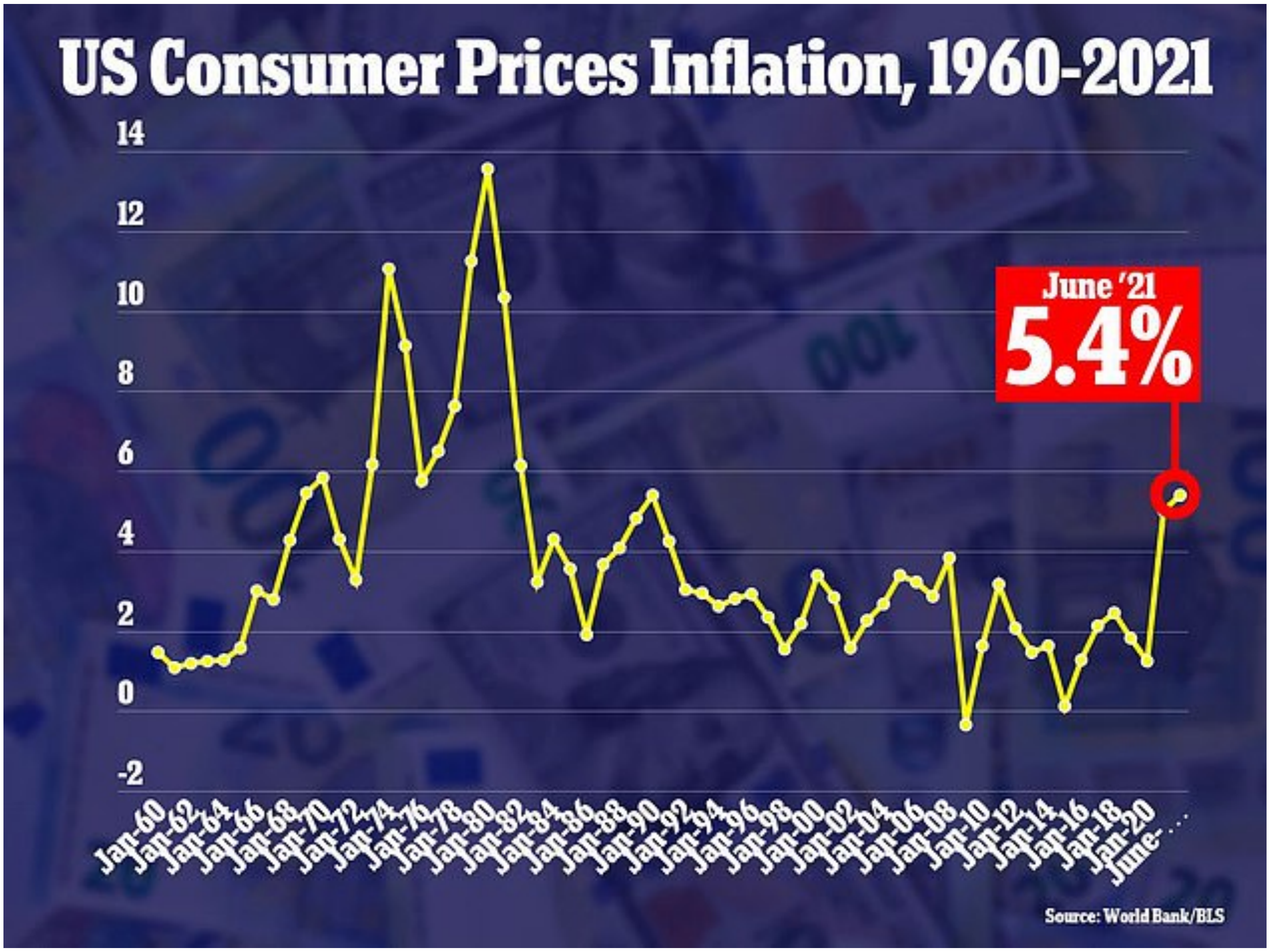
Retail prices for new cars and used cars have been rising sharply in recent months as a computer chip shortage shuts down auto plants.

The price of goods at the wholesale level rose 0.6 percent, led by a 2.6 percent increase in energy prices, the biggest energy gain since a 5 percent increase in March.

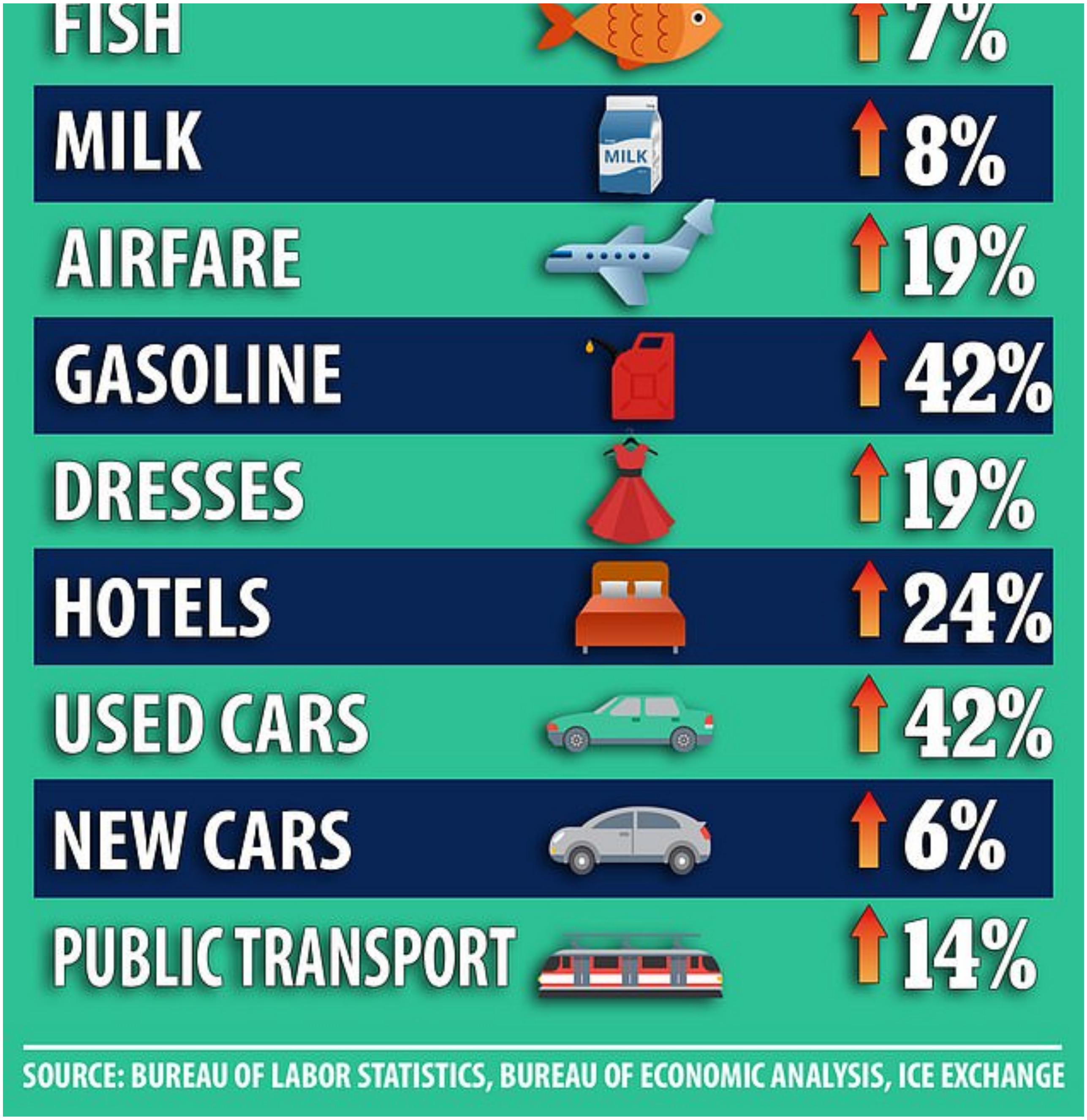
Food costs actually fell 2.1 percent, the first price drop for food since December.

President Biden says inflation is 'expected' and 'temporary'





Consumer prices reported on Wednesday showed the highest inflation since 2008



Despite the alarming numbers, some economists are calling a peak, predicting that inflation will ease off as production and supply chains stabilize from pandemic disruptions.

'We expect the July report to mark the peak of producer price inflation as supply pressures gradually unwind in the coming months and demand moderates from its blistering pace in the first half of the year,' said Mahir Rasheed, an economist at Oxford Economics.

'However, stubborn pandemic disruptions will continue to hamper supply through year-end,' he added.

The recent pace of price increases has intensified debate at the U.S. Federal Reserve over whether faster action may be needed in dialing back its extraordinary support of the pandemic-hit economy, including beginning to reduce its $120 billion in monthly bond purchases.

Fed Chair Jerome Powell has repeatedly said the current burst in inflation is likely temporary but other officials have become increasingly wary price increases will persist.

'Inflation has increased notably and will likely remain elevated in the coming months,' Fed Chair Powell admitted last month, before once again blaming the price hikes on temporary factors such as supply chain disruptions.

The Fed views a controlled amount of inflation as good, because it encourages spending and business investment, rather than hoarding cash.

But out-of-control inflation can be dangerous, eroding the spending power of consumers and hitting low-income families and elderly pensioners the hardest.

The U.S. central bank slashed its benchmark overnight interest rate to near zero last year and continues to flood the economy with money through monthly bond purchases.

The Senate passed the fiscal blueprint of Biden's $3.5trillion infrastructure wish list around 4 a.m. on Wednesday

Mitch McConnell called the bill a 'reckless taxing and spending spree'

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Tom Cotton
@TomCottonAR

Inflation is already crushing working-class Americans.

If the Democrats pass their $3.5 trillion reckless tax and spend plan, this will get much worse.

Inflation is also quickly becoming a political liability for President Joe Biden, whom Republicans in Congress have blamed for contributing to accelerating inflation from having pushed through a $1.9 trillion financial aid package last spring that included stimulus checks to most households and federal supplemental unemployment aid.

Further trillions in spending, backed by Biden and congressional Democrats, are poised to be approved by Congress in the coming weeks.

On Wednesday morning, Senate Democrats passed the framework of a $3.5trillion bill while furious Republicans accused them of letting Senator Bernie Sanders dictate their policy.

Senator Mike Lee, a Utah Republican, slammed Biden's separate $1.2 trillion infrastructure bill, which passed the Senate with bipartisan support this week, as an 'inflation bomb' dropped on the economy.

'Inflation is already crushing working-class Americans. If the Democrats pass their $3.5 trillion reckless tax and spend plan, this will get much worse,' tweeted Senator Tom Cotton, an Arkansas Republican, in response to the new

Prices at the gas pump in particular have become a political liability for Biden, and the White House on Wednesday called on the OPEC+ producers

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to do more to boost supply to ease spiking prices.

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Supply chain crunch and rising cost of crude oil could put US on collision course with inflation

An economist fluent in US-Asia trading has warned that the US may be heading toward economic inflation due to the ongoing supply chain crunch and rising cost of oil.

Stephen Roach, the former Morgan Stanley Asia chairman, said he was worried about the cost of crude oil, which topped at $80 a barrel this week for the first before 2018, adding that the energy spikes on China's supply chain would be an economic tipping point.

'We've had supply chain issues really now for the past year and a half. They've afflicted many commodities,' Roach told CNBC.

'We were sort of one supply chain glitch away from stagflation. That seems to be playing out, unfortunately.'

Stagflation refers to when economic pressures push prices higher during a period of slow growth.

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Economist Stephen Roach appeared on CNBC's Trading Nation to warn of an oncoming inflation crisis similar to the one the US faced in the 1970s

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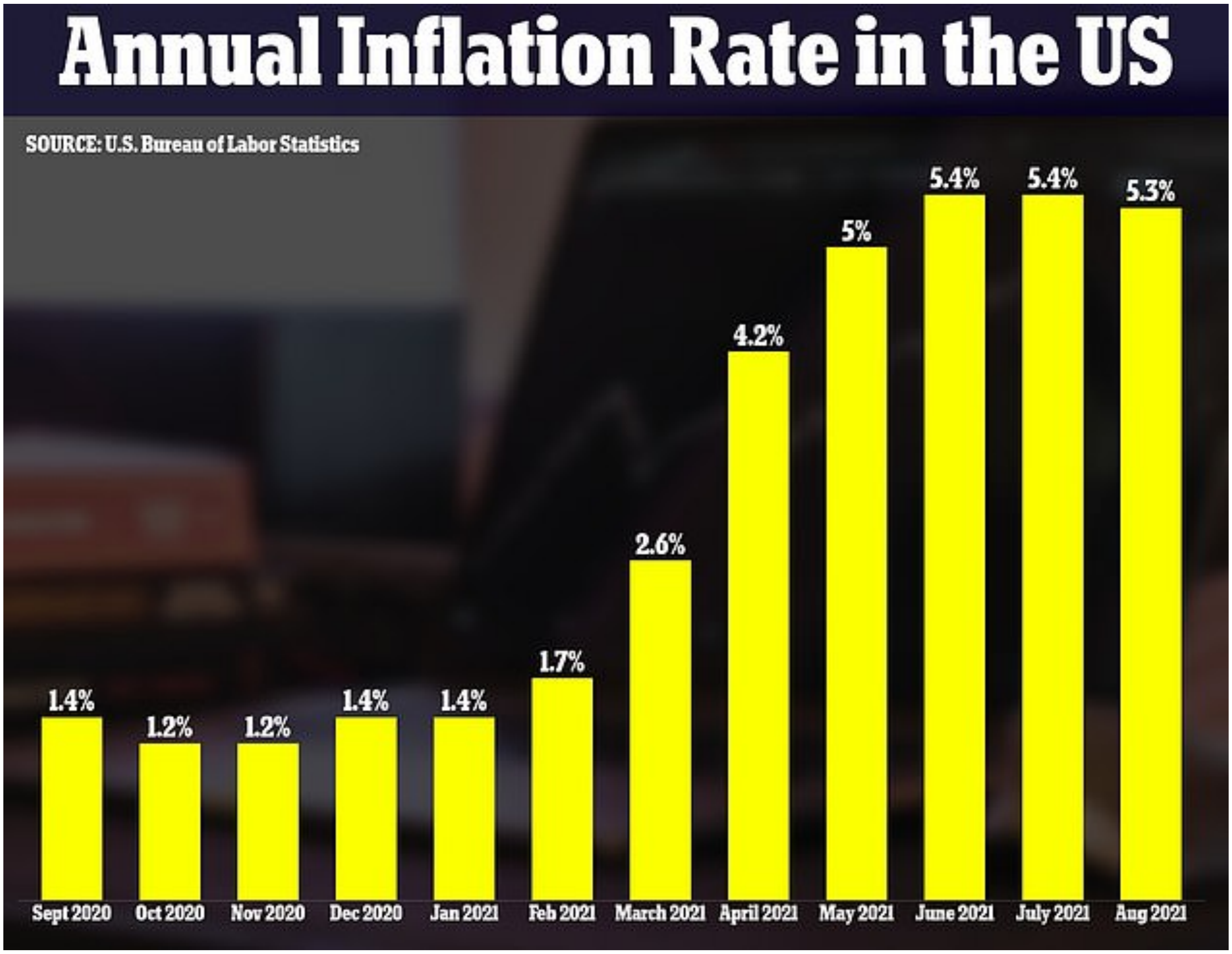

A supply chain crunch caused by a sudden return of demand as the coronavirus pandemic abates has caused inflation to skyrocket in recent months

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Crude oil prices are on the rise and further fueling inflation rates around the world

Annual inflation in the US reached 5.3 per cent in July, the highest in three decades. And this week in an appearance before Congress, Fed Chair Jerome Powell said that price increases have worsened amid snarled supply chains and rising labor costs.

Many large, multinational corporations are sufferings from a supply chain crisis that's causing shipping delays and shortages of goods, including Costco, FedEx, Walmart and Home Depot.

Factors such as a decrease in demand over the first months of COVID-19 in 2020, followed by an overflow at the back end of year, has resulted in delays, port traffic jams, and blockages. A lack of port workers and containers has worsened the situation.

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Simultaneously, top retailers are facing the consequences of truck and driver shortages, leading to longer delays and higher costs.

Roach warned that if this continues and stagflation materializes, it would most likely coincide with the 2021 holiday spending season.

'The impact will primarily be through the price level,' Roach said. 'We need to look much more carefully about the potential risks.'

He was also critical of the Federal Reserves' policies, questioning the need for excess stimulus amid the oncoming long-term inflation.

'The likelihood of continued [supply chain] bottlenecks moving from one area to another, which is strikingly reminiscent of what we saw in the early 1970s, suggests that inflation will stay at these elevated levels for longer than we thought,' Roach said. 'The Federal Reserve is already beginning to back pedal on its recent view that these pressures will fade quickly.'

'It's worrisome for the overall economic outlook and raises serious questions about the wisdom of central bank policies.'

What's Causing The Container Ship Traffic Jam Clogging Up Global Tra...

Earlier this week, Morgan Stanley warned that the sharp increase in crude oil prices could bring about 'demand destruction.'

'Oil prices have disconnected from the marginal cost of supply. Instead, they are travelling to the level where demand destruction kicks in, which we estimate at ~$80/bbl,' Morgan Stanley wrote in June.

The banking company, however, noted that the tipping point would be closer to $85 per barrel.

Morgan Stanley predicted that the global oil supply chain would get tighter, citing an average of 3 million barrels of crude oil drawn per day last month compared to the 1.9 million drawn in previous months.

'These draws are high and suggest the market is more undersupplied than generally perceived,' the bank's analysts Martijn Rats and Amy Sergeant told CNBC.

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Stephen Brennock, a senior analyst at the London-based PVM Oil Associates, added that China's energy woes could worsen the situation.

'China's economic troubles are casting a dark shadow on the demand side of the oil coin and hence the price outlook.'

Along with Costco, FedEx, Walmart and Home Depot - Dollar Tree has also been heavily impacted by the ongoing inflation.

On Thursday, the dollar store retail chain announced that it will now sell its products for more than $1, a clear signal on how prices have gone up due to the current state of the economy.

Dollar Tree admits that supply chain crunch, increased shipping costs and inflation means it will now sell goods for more than $1

Most items at the Dollar Tree will no longer be just a buck as the discount retailer on Wednesday blamed increased shipping costs and inflation for forcing it to jack up prices.

After expanding nationwide from only a handful of stores in Georgia, Tennessee and Virginia, Dollar Tree is breaking the mold and will sell items in some locations that exceed the tantalizing $1 grab-n-go price.

The cost of clothes, cars, food and just about everything else has soared this year as the global economy emerges from a pandemic uppercut, and Dollar Tree has not been untouched.

GEO 29

Dollar Tree said Wednesday that it's responding to customer requests and said pushing the $1 barrier will allow for a better mix of products

Last month the retail chain said that rising shipping costs would take a bite of $1.50 to $1.60 out of its per-share profits this year. That´s a huge hit for any business, perhaps more so for one founded decades ago steadfastly calling itself 'Only $1.00 Inc.'

'For decades, our customers have enjoyed the 'thrill-of-the-hunt' for value at one dollar - and we remain committed to that core proposition - but many are telling us that they also want a broader product assortment when they come to shop,' said CEO Michael Witynski in a prepared statement.

Raising some prices will certainly give the national chain some flexibility and likely more variety on its shelves. But a dollar this year will not buy you what it did in 2020.

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Annual inflation in the U.S. reached 4.2% in July, the highest in three decades. And this week in an appearance before Congress, Fed Chair Jerome Powell said that price increases have worsened amid snarled supply chains and rising labor costs.

The company has already begun testing higher prices at some of its stores in a section called 'Dollar Tree Plus' with items that can go for as much as $5

That has hit businesses of every type, perhaps especially one that has held the line at $1 for decades.

Witynski said this week that Dollar Tree is a 'test-and-learn' company, and they'll be watching how customers react.

The company had already begun testing higher prices at several hundred of its nearly 8,000 locations in a section of the store called 'Dollar Tree Plus' with items that can go for as much as $5.

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Items that can go for $1.25 to $1.50 will soon be found in the mix at some locations amid the typical assortment of $1 products.

News of the price increases caused Shares of Dollar Tree Inc. jumped 13% at the opening bell Wednesday

Analysts with J.P. Morgan noted past conversations with Dollar Tree executives who cited a significant sales boost at stores offering a Plus section and if no one else is cheering the shift to the top side of $1 at Dollar Tree, Wall Street is.

Shares of Dollar Tree Inc. jumped 13% at the opening bell Wednesday.

As Dollar Tree breaks the $1 barrier, Witynski said the company would remain true to its promise of value.

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'We will continue to be fiercely protective of that promise, regardless of the price point, whether it is $1.00, $1.25, $1.50,' Witynski said.

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MARKETS see all →

DOW -1.63%

S&P 500 -2.04%

NASDAQ -2.83%

FEATURED

Cryptocurrency, explained

If you're a crypto novice, you might be wondering what all the fuss is about

Home heating sticker shock: The cost of natural gas is up 180%

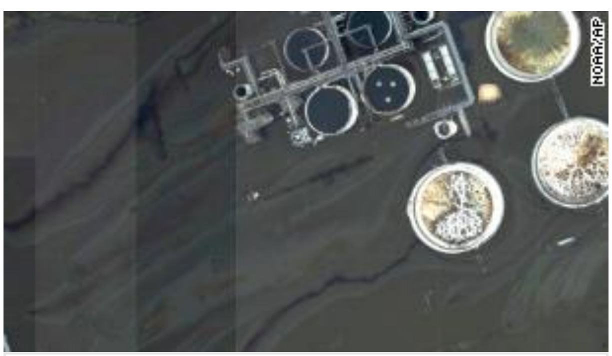
By Matt Egan, CNN Business

Updated 3:30 PM ET, Tue September 28, 2021

New York (CNN Business) — Americans should brace for sticker shock on home heating costs as temperatures drop this fall and winter.

Prices for natural gas, the most common way to heat homes and a leading fuel source for generating electricity, have surged more than 180% over the past 12 months to $5.90 per million British thermal units. Natural gas hasn't been this expensive since February 2014.

The risk is that an early winter or extremely cold fall temperatures will force households to crank up the heat. That would further shrink the nation's below-average stockpiles of natural gas and could lift prices even higher.



Related Article: Here comes $90 oil

"If we get an early frost, it could get ugly. It could get ugly fast," said Robert Yawger, director of energy futures at Mizuho Securities.

The natural gas spike is exacerbating the United States' first brush with inflation in more than a dozen years. Families are already dealing with surging prices on everything from used cars and gasoline to bacon.

The inflation surge is forcing the Federal Reserve to consider curtailing its ongoing support of the economy and leading some moderate lawmakers to question the need for the White House's ambitious spending plans. Meanwhile the energy crunch is making global investors nervous about economic growth and high prices.

"This would be bad enough even in normal times. But now there is this general fear about inflation," said Robert McNally, president of consulting firm Rapidan Energy Group.

About half of US households use natural gas for home and water heating, according to the US Energy Information Administration.

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The American Gas Association, which represents natural gas utilities like Con Edison, noted that "natural gas utility customers are not paying the day-to-day prices for natural gas that we see in the headlines," spokesperson Jake Rubin said in a statement.

That's because, AGA stressed, its members buy gas through long-term contracts that lock in prices and shield customers from some of the volatility. Rubin added that utilities augment winter supplies with storage of gas purchased months earlier.

'Disastrous' gas crisis in Europe

The natural gas situation is far worse overseas: Europe and Asia are grappling with crippling increases in natural gas prices and shortages that have forced blackouts, shutdowns of factories and cast a shadow over the economic recoveries there.

"It's disastrous," McNally said.

Soaring natural gas prices forced a major US fertilizer maker to halt operations in the United Kingdom. Fearing food shortages from a lack of carbon dioxide production, the UK government stepped in to bail out the American company.

The impact in the United States is blunted by the fact that the nation is the world's leading producer of natural gas, a benefit of the shale boom that unlocked an abundance of cheap gas. In fact, the United States is a major exporter of natural gas.

"There's no way we're running out of natural gas. We're going to survive," Yawger said.

GEO 30

An expensive winter

Prices for natural gas, the most common way to heat homes and a major fuel source for electricity in the United States, have surged more than 180% over the past 12 months to $5.90 per million British thermal units.

US natural gas price, per million British thermal units

Supply can't catch up with demand

So why have natural gas prices gone up so sharply? The central problem is that while economic activity bounced back, natural gas production did not. That means demand is coming back faster than supply, forcing prices to go higher.

After years of losing money, natural gas producers have been cautious about ramping up production. Storage levels in the Lower 48 US states are slightly below normal, according to the US Energy Information Administration.

Demand was further boosted by heatwaves across the country this summer. Hot temperatures drove up air conditioning usage and electricity demand.

Natural gas is the leading fuel source for the US power grid, supplying 40% of utility-scale electricity generation, according to the EIA.

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The situation has been exacerbated by unplanned production outages in Norway and Russia as well as by Hurricane Ida, which knocked offline the vast majority of the Gulf of Mexico's oil and gas production.

'Perfect storm'

Related Article: The energy crunch is roiling markets

US supplies have been whittled down further by strong demand from overseas amid high international prices. US exports of liquefied natural gas are expected to average 9.6 billion cubic feet per day this year, up 48% from a year ago, according to the EIA.

And then there's the role of hedge funds and other big money traders on Wall Street. Yawger said speculators jumped in to bid natural gas prices higher when they realized storage levels were unusually low.

"It's been a perfect storm, with specs jumping in to take full advantage of this. It's spec nirvana," he said.

The good news is that some on Wall Street argue the natural gas spike may be getting out of hand.

Last week, Bank of America wrote that the winter risk premium built into natural gas prices has "reached excessive levels." The bank expects natural gas prices to drop during the final three months of the year and go lower next year.

The energy transition won't be easy

Related Article: UK puts army on standby to deliver fuel as service stations run dry

The natural gas price spike comes at a tricky time for governments around the world. Not only are they dealing with elevated inflation, global leaders are also trying to transition away from fossil fuels.

Environmental groups want to ban oil and gas fracking to prevent emissions from warming the planet. At least four countries in the Europe Union have enacted plans to end domestic fossil fuel production by 2050, according to IHS Markit.

President Joe Biden has set a target of carbon-free electricity generation by 2035, an ambitious goal that would require a dramatic shift away from natural gas and coal to solar and wind.

Today's high energy prices are a painful reminder of how addicted the world economy remains to fossil fuels — and how difficult, and potentially unpopular, it will be to wean off them.

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Markets

Natural Gas Soars Most Since Last Winter on U.S. Scarcity Fears

By Gerson Freitas Jr

September 27, 2021, 10:14 AM EDT *Updated on September 27, 2021, 3:19 PM EDT*

- Expiration of October futures and options adds to momentum
- Prices for the fuel jump globally with winter approaching

Natural gas prices surged to a fresh seven-year high in the U.S. as the expiration of October options added momentum to a rally fueled by escalating concerns about tight winter supplies.

Gas for October delivery gained 11%, the biggest daily jump since February,

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settling at $5.706 per million British thermal units, a level not seen since early 2014. Traders were closing out bearish positions ahead of the expiration of October options and futures this week. Shares of gas producers also soared amid broader energy-market gains, with EQT Corp. up as much as 12% and Southwestern Energy Co. climbing 24%.

Prices for the heating and power-generation fuel are soaring globally with low stockpiles in Europe and Asia sparking fears of shortages as winter approaches. In the U.S., storm-related supply disruptions have compounded concerns about slow output growth as drillers heed investors' calls for financial restraint, making it unlikely that shale producers will be able to bail out the rest of the world this winter.

"The commodity is getting repriced in terms of its value," said John Kilduff, founding partner at Again Capital. "There's such a demand for it around the world."

Europe's Energy Crisis Is Coming for the Rest of the World, Too

The premium for gas delivered in March versus April -- essentially a bet on how tight supplies of the fuel will be at end of winter -- has climbed to the highest for this time of year since 2005. U.S. gas stockpiles are 6.9% below the average for the past five years, government data show, and the nation is poised to send more cargoes of the fuel overseas as new export capacity comes online.

About 24% of gas production in the U.S. Gulf of Mexico is still shut after Hurricane Ida landed, according to the Bureau of Safety and Environmental Enforcement. Operations in the region are not expected to fully recover until next year.

With no major production increases seen for the next several months and export plants running close to full capacity on strong Europe and Asia demand, "the perception of a shortage can easily be a reality if we see a cold December," says Dennis Kissler, a senior vice president at Bok Financial Securities. Still, the market may be poised for a "large correction" if U.S. temperatures move into seasonal norms, he adds.

Meanwhile, gas traders are paying increasingly more for options contracts to protect against a potential price surge this winter. Implied volatility -- a measure of how expensive options are -- has jumped to a record 107% on February contracts, up from 68% a month ago, according to exchange data compiled by Bloomberg.

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Roger Waters Slams Silicon Valley's 'Rogues and Thieves'

Roger Waters is the latest artist to slam streaming music as the Pink Floyd great accused Silicon Valley execs of being "rogues and thieves" for the way they have reshaped the music industry. In a new interview, Waters talks about how difficult it is for an artist to thrive in an age where their music is nearly given away. He also clearly states that, for him, a Pink Floyd reunion "is out of the question."

Sidebar

Nick Mason Explains Why He'll Never Give Up On Pink Floyd »

"I feel enormously privileged to have been born in 1943 and not 1983," Waters told the Times UK (via NME). "To have been around when there was a music business and the takeover by Silicon Valley hadn't happened, and in consequence, you could still make a living writing and recording songs and playing them to people. When this gallery of rogues and thieves had not yet injected themselves between the people who aspire to be creative and their potential audience and steal every fucking cent anybody ever made."

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Waters joins a growing number of artists who have either spoken out against Spotify and its ilk or who have pulled their catalogs from the services entirely. Much of the debate over streaming music centers around the low pay-per-stream these services offer artists while the services themselves rack up profits in subscriptions and advertising. "The amounts these services pay per stream is minuscule – their idea being that if enough people use the service those tiny grains of sand will pile up," David Byrne wrote in his own criticism of Spotify.

Waters' comments are also similar to those made by Pink Floyd drummer Nick Mason, who faulted Apple over the way U2's *Songs of Innocence* was distributed. "Look, U2 are a great band, and Bono's an extraordinary individual, so this isn't an anti-U2 tirade," Mason said. "But it highlights a vital aspect to the whole idea of music in the 21st century. What's also interesting is that Apple seem to have got off scot-free. No one's blaming them. Apple has done great things, but it has also contributed to the devaluation process [of music]."

Following the release of Pink Floyd's *The Endless River*, guitarist David Gilmour repeatedly stated in interviews that the LP would mark the final chapter in the Rock and Roll Hall of Fame band's story. However, the Times UK asked Waters whether he could rejoin Gilmour and Mason in the future, and the bassist reiterated that his Floyd days are over.

"A reunion is out of the question," Waters said. "Life after all gets shorter and shorter the closer you get to the end of it and time becomes more and more precious and in my view should be entirely devoted to doing the things you want to do. One can't look backwards."

Last October, after Waters was barraged with questions about *The Endless River*, he wrote a note on Facebook alerting fans, "I am not part of Pink Floyd. I left Pink Floyd in 1985, that's 29 years ago." Waters is currently working on a reissued, remixed version of his 1992 solo album *Amused to Death*.

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nonprofitlight.com

Executives Listed on Filing

Total Salary includes financial earnings, benefits, and all related organization earnings listed on tax filing

Name	Title	Hours Per Week	Total Salary
David Israelite	President & CEO	38	$1,282,500
Danielle Aguirre	EVP & General Council	36	$402,750
Christopher Steven Cylke	SVP, Government Affairs	39.8	$278,217
Erich Carey	Vice President & Senior Counsel	39.8	$221,885
Amelia Wang	VP, Industry Relations & Gov't Aff	39.8	$199,697
Charlotte Sellmyer	SVP, External Affairs	32	$162,400
Natalie Madaj	Senior Counsel, Business Affairs	39.8	$155,220
Ralph Peer	Vice President	0.1	$2,000
David Renzer	Board Member	0.1	$1,600
Chip Mclean	Board Member	0.1	$1,600
Jody Klein	Board Member	0.1	$1,600
Golnar Khosrowshahi	Board Member	0.1	$1,600
Justin Kalifowitz	Board Member	0.1	$1,600
Neil Gillis	Board Member	0.1	$1,600
Barry Coburn	Assistant Secretary	0.1	$1,600
Matt Pincus	Treasurer	0.1	$1,600
Leeds Levy	Secretary	0.1	$1,600

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Hipgnosis founder Merck Mercuriadis' message to the majors

by **MusicWeek Staff**
September 1st 2021 at 6:55AM

Hipgnosis Songs boss **Merck Mercuriadis** has delivered a message to the majors in a new interview with *Music Week*.

The music mogul has consistently spoken of his intention to be a catalyst for changing **where the songwriter sits in the economic equation** as a consequence of his **extraordinary spending spree** since launching the song management company in 2018.

Speaking in the **latest issue of *Music Week***, Mercuriadis said he the findings of the **DCMS Committee's report into streaming**, which included a call for a Competition And Markets Authority (CMA) investigation into the economic impact of the dominance of the major music groups, could help accelerate that shift.

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“I thought that was probably work that would take seven or so years to do, but now I think it will take two or three years to do, because of the incredible work by the DCMS,” he said.

“I believe the reason that the songwriter is the low man or woman in the economic equation is because the three biggest publishers in the world aren’t advocating for songwriters, because they’re owned and controlled by the three biggest recorded music companies.

"The recommendation of having the CMA look at this, what I call, unhealthy relationship between the major companies and publishers is essential to bring change in a way that will finally reward songwriters. Songs are the currency of our business: there’s nothing without the song, so how can it be that the songwriter is the lowest paid?”

> *We're talking about an industry that's going to grow by almost five times in the space of the next eight or nine years*
>
> *Merck Mercuriadis, Hipgnosis*

Praising **Sony Music Entertainment's move to open up DSP royalties for legacy artists as part of its new Artists Forward initiative**, Mercuriadis said the rude health of the record business meant, "the time is now" for major labels to do right by creators.

"When we started three years ago, there were barely 100 million paid subscribers to music streaming services. Today, there are 487m and by the time we get to the end of the decade, there will be two billion," he said. "We’re talking about an industry that’s going to grow by almost five times in the space of the next eight or nine years.

"I like to say that I’ve made my success with artists and songwriters and producers, as opposed to at the expense of them. The major companies now have to evolve, where hopefully in 10 years’ time, they can say the same thing. I’m a catalyst for change, but I can’t do it without someone like Lucian Grainge, Rob Stringer, or Max Lousada and Len Blavatnik jumping on board the train. What I hope is that people will recognise that there is enough money flooding into this industry now to share it fairly and equitably with the songwriters that give us the currency of our business."

> *Almost all consumption of music today is paid consumption*
>
> *Merck Mercuriadis, Hipgnosis Songs*

Mercuriadis said the rise of streaming platforms meant music had gone from being considered a "discretionary, luxury purchase" to a "utility purchase".

"The benchmark for extraordinary success in our business used to be the platinum record," he said. "Using the United States as a microcosm, that's a million copies in a country that has 360m people in it. So our our customer was one in 360. That immediately tells you that the average person might have loved music and was happy to hear it ostensibly for free on the radio, or see it on television, but was never putting their hand in their pocket and pulling out a tenner and paying for it. Well now, there are 100m homes in the United States that all have a premium paid music subscription service. So our customer's gone from being one in 360 to being one in 3.6, so that's unbelievable.

"What's inherent with that, but not necessarily obvious to many people, is that the discount rates used by the market to value catalogues are narrowing as a result, because there is no risk anymore. There is a certainty to those revenues and that is making the catalogues more valuable – and therefore there's more money to share with the songwriter and the artist too."

He added: "Almost all consumption of music today is paid consumption. If you're streaming, you're paying for it. If you're listening on the radio, fees and royalties are being paid. If you're on social media, royalties are being paid, fees are being paid. If you're on Peloton doing your exercise class, again, it's the same thing. So 10 years ago, almost all consumption of music was unpaid consumption. Today, almost all consumption of music is paid consumption of music. These two things have dramatically changed the world of the economics of our world and make it possible to remunerate the songwriter fairly and equitably."

Click **here** to read the full Music Week Interview with Merck Mercuriadis.

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Introducing
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from Spotify for Artists
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$100
Artist Fundraising Pick
COVID-19 SUPPORT
COVID-19 support
Make a contribution
Visit the artist's fundraising choice
Pay

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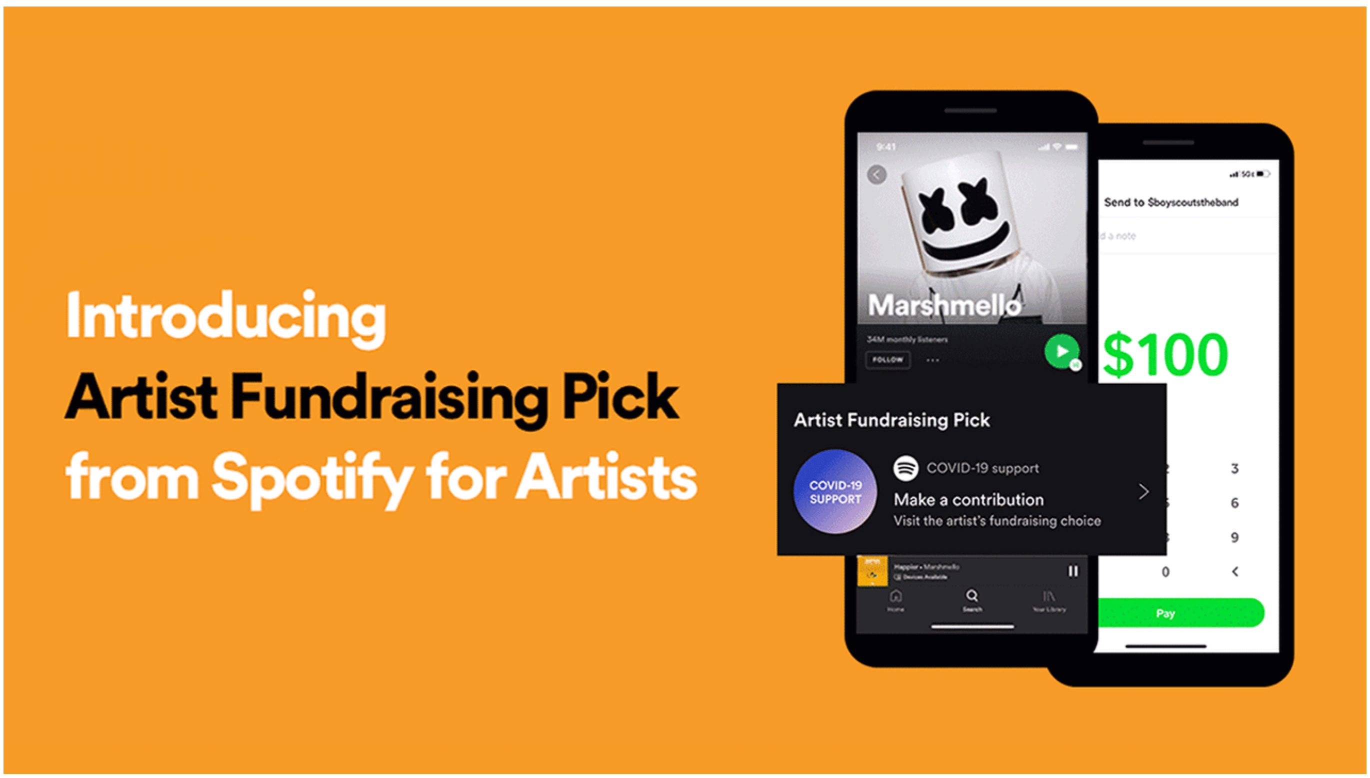
Introducing
Artist Fundraising Pick
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Marshmello
34M monthly listeners
FOLLOW
Send to $boyscoutstheband
$100
Artist Fundraising Pick
COVID-19 SUPPORT
COVID-19 support
Make a contribution
Visit the artist's fundraising choice
Pay

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Introducing
Artist Fundraising Pick
from Spotify for Artists
9:41
Tyrese Pope
3M monthly listeners
FOLLOW
Send to $boyscoutstheband
$100
Artist Fundraising Pick
COVID-19 SUPPORT
COVID-19 support
Make a contribution
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U.K. Parliament Slams Major Music Labels, Backs Artists in Damning Report on Streaming Revenue

Mark Sutherland Jul 14, 2021 4:00pm PT

Pete Ryan for Variety

The music streaming business appears headed for unprecedented upheaval in the U.K., after an influential Parliamentary committee recommended a "complete reset" of the sector.

The U.K. Government's Department for Digital, Culture, Media & Sport (DCMS) Committee has been running its investigation into the economics of music streaming since October 2020.

And, while British Parliamentary committees are not usually synonymous

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with radical action, this one did not come to play. Instead, it has recommended a sweeping set of changes that, if enacted, could completely reshape the way the British industry operates.

"While streaming has brought significant profits to the recorded music industry, the talent behind it — performers, songwriters and composers — are losing out," said DCMS Committee chair Julian Knight MP. "Only a complete reset of streaming that enshrines in law their rights to a fair share of the earnings will do."

First in the committee's sights were the "pitiful returns" it said artists and songwriters earn from streaming. To help remedy that, the report calls on the government to introduce a right to equitable digital music remuneration.

A similar non-waivable, non-transferrable right to equitable remuneration (ER) — which is not subject to recoupment — already exists for U.K. radio play, and would mean streaming recording royalties would be split 50/50 between performers and rights-holders.

That was one of the key objectives for the #BrokenRecord and #FixStreaming campaigns that have gathered momentum throughout the COVID-19 pandemic, and attracted support from some of the biggest names in British music, including Paul McCartney, Mick Jagger and Roger Daltrey.

ER would also hit major labels' income by significantly reducing their share of royalties. BPI, the labels' trade body, says the system would also hit labels' investment in new talent.

But the bad news for Universal, Sony and Warner didn't end there, with the report also recommending referring the big three to the Competition and Markets Authority (CMA) to investigate what it calls the majors' "market dominance" in both recordings and music publishing. That's despite figures

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showing independent music companies' streaming market share growing in the U.K. for the past five years.

The majors would have known they were on the back foot in the debate after a bruising committee session earlier this year, when the three U.K. label CEOs were grilled mercilessly by MPs. But their worst fears have been realized in the report, which also calls for the creation of a right for artists to recapture works after a period of time from record labels, as well as a right to renegotiate contracts if "an artist's work was successful beyond the remuneration they received."

Sony Music has already agreed to pay through on unrecouped balances for deals signed before 2000, with the committee calling on Universal and Warner to follow suit.

In contrast, the streaming services themselves — which many in the industry had initially expected to be the focus of the inquiry — were largely let off the hook… with one exception: YouTube. The report contends that "safe harbor" provisions that exempt the Google-owned service from liability over copyright-infringing user-generated content on its platform give it an unfair advantage, and also recommends that the CMA investigate YouTube's streaming "dominance" and "take steps to encourage competition." It also calls for new legislation around safe harbor — perhaps similar to the European Union's Copyright Directive.

Meanwhile, reaction to the report revealed an industry divided along creative/rights-holder lines.

Musician Tom Gray, architect of the #BrokenRecord campaign, said: "The report brilliantly and coherently cuts to the chase: the music industry has a serious problem. Profits are soaring, margins are better than ever, the value of the once piracy-blighted industry is forecast to eclipse anything seen in

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our lifetimes within a decade, but performers and songwriters are being left well behind."

Horace Trubridge, general secretary of the Musicians' Union, and Crispin Hunt, chair of songwriters group the Ivors Academy — the two organizations behind the #FixStreaming campaign — were similarly elated. Trubridge called the report "revolutionary," while Hunt said it was "a great day for musicians and music creators."

The Music Managers Forum and the Featured Artists Coalition also endorsed the report's findings.

Labels, unsurprisingly, were less keen. The trade body for independents, the Association of Independent Music, welcomed some aspects of the report, but CEO Paul Pacifico dubbed ER "a 20th century solution not fit for the 21st century digital market" that "will leave the next generation of artists worse off."

And, while the majors are yet to comment, BPI chief executive Geoff Taylor warned: "Labels are committed to ensuring that artists share fairly in the growth from streaming. We will carefully examine the findings of this report, but it is essential that any policy proposals avoid unintended consequences for investment into new talent, and do not imperil this country's extraordinary global success in music."

One hope for the labels is that, while the government is obliged to respond to the report, it is not actually compelled to act upon its recommendations. During her appearance in front of the committee, DCMS Minister Caroline Dinenage appeared to favor an internal music industry solution, although the report comes out so strongly for market reform that the government could be risking a big backlash if it opted to do nothing.

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There may, however, still be time for the labels to come up with their own compromise proposals. *Variety* sources suggest many labels could live with ER being introduced for non-elective streams from playlists, while many companies will already have been looking at legacy contract changes in the light of Rob Stringer's big move at Sony and similarly progressive steps at BMG.

You can certainly expect frantic lobbying from both sides over the next couple of months, as the government considers its response. But, one way or another, some major changes are surely coming to the U.K. industry — and that could have implications for every other music market in the world.

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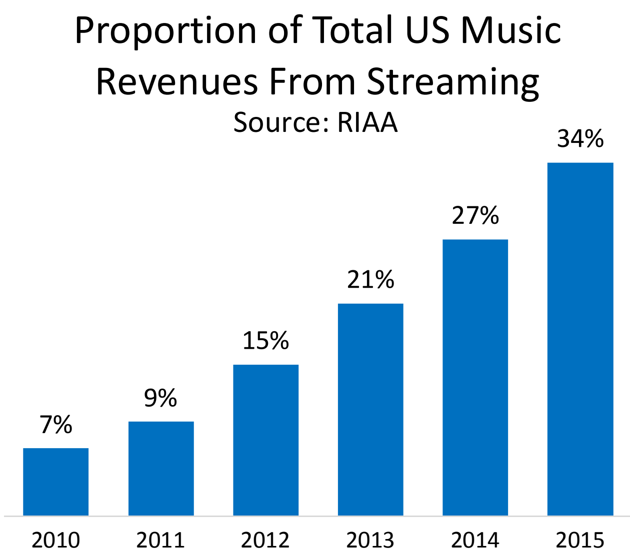
News and Notes on 2015 RIAA Shipment and Revenue Statistics

Joshua P. Friedlander
Senior Vice President, Strategic Data Analysis, RIAA

The U.S. recorded music industry continued its transition to more digital and more diverse revenue streams in 2015. Overall revenues in 2015 were up 0.9% to $7.0 billion at estimated retail value. The continued growth of revenues from streaming services offset declines in sales of digital downloads and physical product. And at wholesale value, the market was up 0.8% to $4.95 billion – the fifth consecutive year that the market has grown at wholesale value.

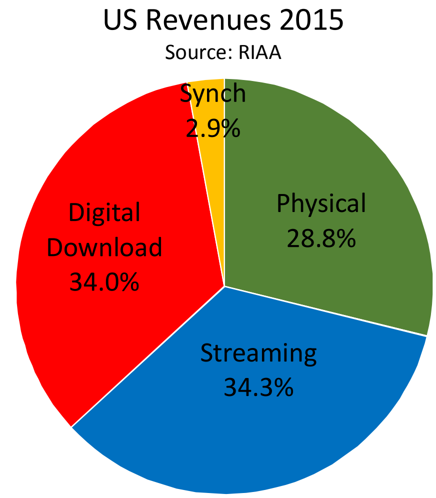
2015 was a milestone year for streaming music. For the first time, streaming was the largest component of industry revenues, comprising 34.3% of the market, just slightly higher than digital downloads.

Figure 1



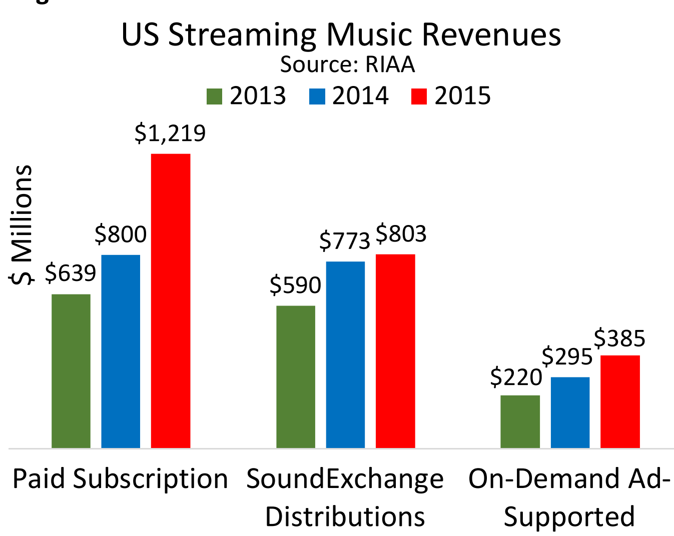
The streaming category includes revenues from subscription services (such as paid versions of Spotify, TIDAL, and Apple Music, among others), streaming radio service revenues that are distributed by SoundExchange (like Pandora, SiriusXM, and other Internet radio), and other non-subscription on-demand streaming services (such as YouTube, Vevo, and ad-supported Spotify).

Figure 2



All parts of the streaming music market grew in 2015, and total streaming revenues exceeded $2 billion for the first time ever. Combining all categories of streaming music (subscription, ad-supported on-demand, and SoundExchange distributions), revenues grew 29% to $2.4 billion.

Figure 3

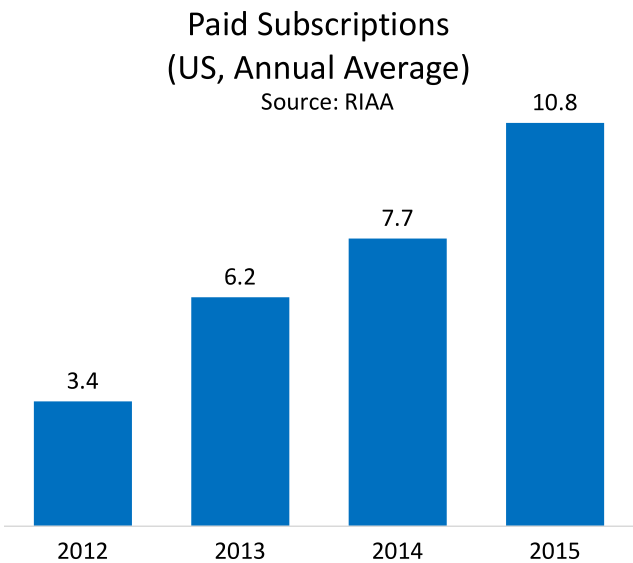


Paid subscription services were the biggest – and fastest growing – portion of the streaming market. The launch of new services like TIDAL and Apple Music made this one of the most watched and talked about spaces in the industry. In 2015, revenues from paid subscriptions

SX Ex. 003

grew 52% to $1.2 billion. At the same time, the number of paid subscriptions grew 40% to an average of 10.8 million for the full year.

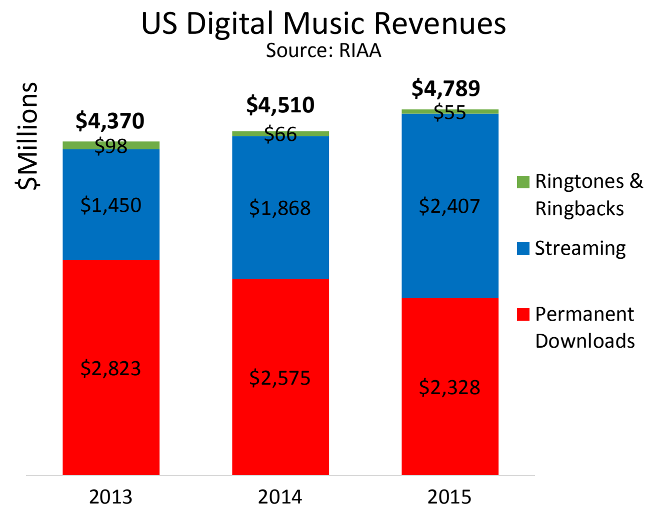
Figure 4



SoundExchange distributions grew 4% to $803 million, and on-demand ad-supported streaming grew 31% y-o-y to $385 million.

Digital accounted for 70% of the overall market by value, compared with 67% in 2014 (note Synchronization excluded from this figure). Even though digital download revenues (including digital tracks and albums) declined 10% to $2.3 billion, the total value of digitally distributed formats was up 6% to $4.8 billion, compared to $4.5 billion in 2014.

Figure 5



Total value of shipments in physical formats was $2.0 billion, down 10% versus the prior year. Vinyl LPs were up 32% by value, and at $416 million were at their highest level since 1988. Synchronization royalties were $203 million, up 7% versus the prior year.

Overall, the data for 2015 shows a music industry that continues to adopt digital distribution platforms for the majority of its revenues. While overall revenue levels were only up slightly, large shifts continued to occur under the surface as streaming continued to increase its market share. In 2015, the industry had the most balanced revenue mix in recent history, with just about 1/3 of revenues coming from each of the major platform categories: streaming, permanent downloads, and physical sales.

Note – 2013 and 2014 data has been updated.

For news media inquiries, please contact: Jonathan Lamy
Cara Duckworth Weiblinger
Liz Kennedy
202/775-0101

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2015 Year-End Industry Shipment and Revenue Statistics

202-775-0101

United States Unit Shipments and Estimated Retail Dollar Value
(In Millions, net after returns)

For a list of authorized services see www.whymusicmatters.com

Digital Permanent Download

		2014	2015	% CHANGE 2014-2015
(Units Shipped)	Download Single	1,199.1	1,021.0	-14.9%
(Dollar Value)		$1,407.8	$1,226.9	-12.8%
	Download Album	117.6	109.4	-7.0%
		$1,150.9	$1,090.7	-5.2%
	Kiosk[1]	1.6	2.2	38.4%
		$2.6	$3.7	43.2%
	Music Video	6.8	3.2	-52.8%
		$13.6	$6.4	-52.8%
	Ringtones & Ringbacks	26.6	21.9	-17.7%
		$66.3	$54.6	-17.7%

Digital Subscription & Streaming

	2014	2015	% CHANGE 2014-2015
SoundExchange Distributions[2]	$773.4	$802.6	3.8%
Paid Subscription[3]	7.7	10.8	40.2%
	$800.1	$1,218.9	52.3%
On-Demand Streaming (Ad-Supported)[4]	$294.8	$385.1	30.6%
TOTAL DIGITAL VALUE	**$4,509.5**	**$4,789.0**	**6.2%**
Synchronization Royalties[5]	$189.7	$202.9	7.0%

Physical

		2014	2015	% CHANGE 2014-2015
(Units Shipped)	CD	142.8	122.9	-13.9%
(Dollar Value)		$1,832.6	$1,520.8	-17.0%
	CD Single	1.0	0.4	-59.5%
		$3.8	$1.2	-67.5%
	LP/EP	13.2	16.9	28.3%
		$314.9	$416.2	32.2%
	Vinyl Single	0.5	0.5	4.1%
		$5.9	$6.1	2.6%
	Music Video	4.1	3.3	-20.4%
		$91.2	$73.2	-19.8%
	DVD Audio	0.1	0.2	169.7%
		$2.1	$5.4	153.2%
	SACD	0.0	0.0	39.8%
		$0.8	$1.1	40.5%
	Total Physical Units	**161.7**	**144.2**	**-10.8%**
	Total Physical Value	**$2,251.3**	**$2,024.0**	**-10.1%**
	Total Retail Units	**141.3**	**124.5**	**-11.9%**
	Total Retail Value	**$2,112.0**	**$1,898.0**	**-10.1%**

TOTAL DIGITAL AND PHYSICAL

	2014	2015	% CHANGE 2014-2015
Total Units[6]	**1,513.4**	**1,302.0**	**-14.0%**
Total Value	**$6,950.5**	**$7,015.9**	**0.9%**

% of Shipments[7]	2014	2015
Physical	33%	30%
Digital	67%	70%

Retail Value is the value of shipments at recommended or estimated list price
Formats with no retail value equivalent included at wholesale value
Note: Historical data updated for 2013 and 2014

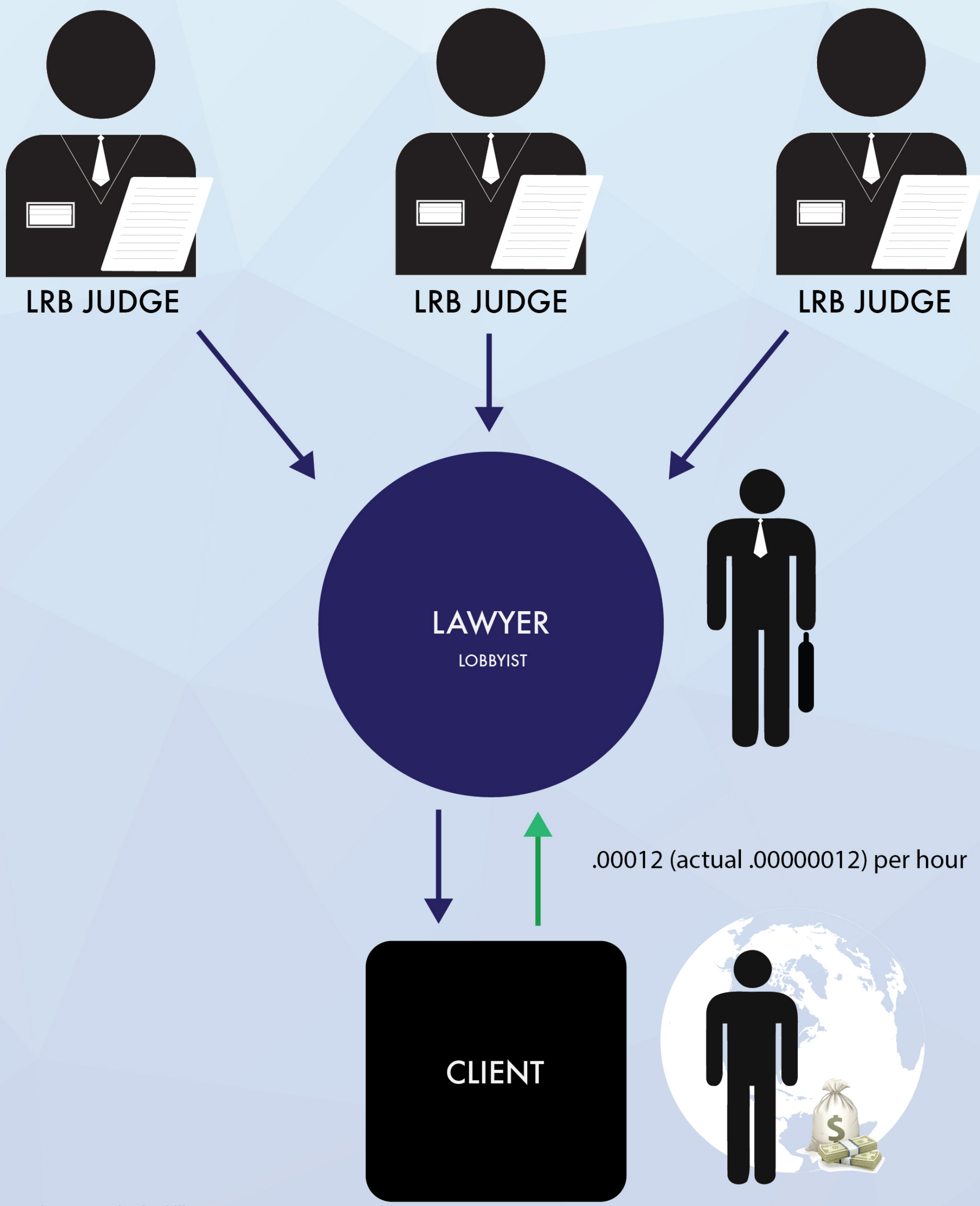
1 Includes singles and albums
2 Estimated payments in dollars to performers and copyright holders for digital radio services under statutory licenses
3 Streaming, tethered, and other paid subscription services not operating under statutory licenses
Subscription volume is annual average number of subscriptions
4 Ad-supported audio and music video services not operating under statutory licenses
5 Includes fees and royalties from synchronization of sound recordings with other media
6 Units total includes both albums and singles, and does not include subscriptions or royalties
7 Synchronization Royalties excluded from calculation

LRB ACT

LAWYER & LOBBYIST RATE BOARD
NEW LRB SETS LAWYER'S HOURLY RATES

A bill to establish a 3 judge federal rate court know as the LRB - Lawyer & Lobbyist Rate Board.
The Act requires the LRB to determine *all* hourly billable rates
at .00012 cents per hour. Must go through third party aggregator. Also includes all lobbyists.
LRB meets once every 5 years to adjust rates.

PREFERRED MODEL FOR LAWYERS



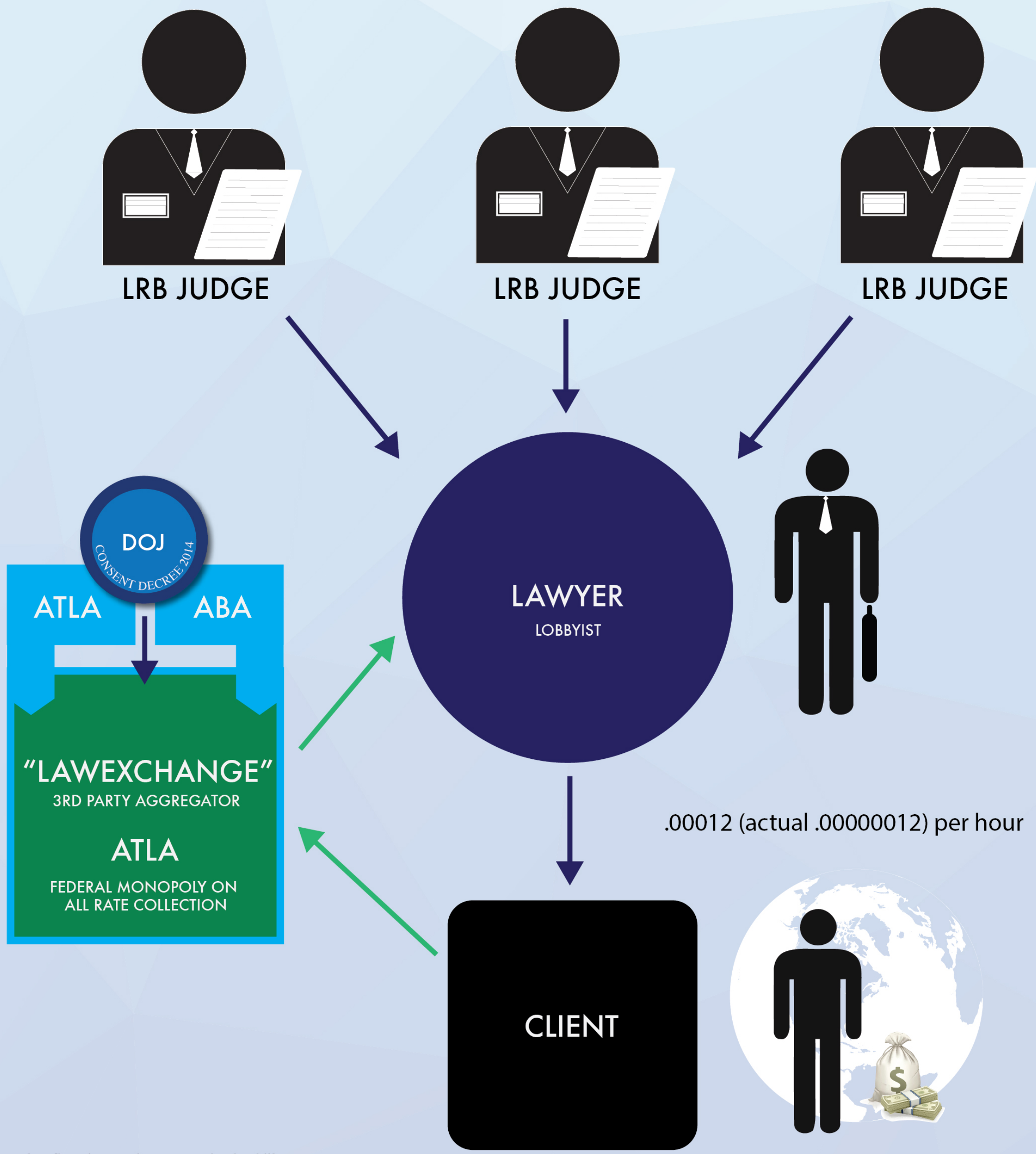
* Top 3 law firms in America are permitted to bill clients at whatever hourly rate they choose.

LRB ACT

LAWYER & LOBBYIST RATE BOARD
NEW LRB SETS LAWYER'S HOURLY RATES

A bill to establish a 3 judge federal rate court know as the LRB - Lawyer & Lobbyist Rate Board.
The Act requires the LRB to determine *all* hourly billable rates
at .00012 cents per hour. Must go through third party aggregator. Also includes all lobbyists.
LRB meets once every 5 years to adjust rates.

PREFERRED MODEL FOR A.T.L.A. AND A.B.A. LOBBYISTS



* Top 3 law firms in America are permitted to bill clients at whatever hourly rate they choose.

SU
SONGWRITERS UNITED

GEO 40

UNITED STATES COPYRIGHT ROYALTY JUDGES
The Library of Congress

In re **DETERMINATION OF RATES AND TERMS FOR DIGITAL PERFORMANCE OF SOUND RECORDINGS AND MAKING OF EPHEMERAL COPIES TO FACILITATE THOSE PERFORMANCES (WEB V)**	**Docket No. 19-CRB-0005-WR (2021-2025)**

FINAL DETERMINATION
(Public Version)

The Copyright Royalty Judges (Judges) hereby issue their written determination of royalty rates and terms to apply from January 1, 2021, through December 31, 2025, to digital performance of sound recordings over the Internet by nonexempt, noninteractive transmission services and to the making of ephemeral recordings to facilitate those performances.

The rate for commercial subscription services in 2021 is **$0.0026 per performance**. The rate for commercial nonsubscription services in 2021 is **$0.0021 per performance**. The rates for the period 2022 through 2025 for both subscription and nonsubscription services shall be adjusted to reflect the increases or decreases, if any, in the general price level, as measured by the change in the Consumer Price Index for All Urban Consumers (U.S. City Average, all items) (CPI-U) from that published by the Bureau of Labor Statistics (BLS) in November 2020, as set forth in the regulations adopted by this determination.

The rates for noncommercial webcasters are: **$1000 annually** for each station or channel for all webcast transmissions totaling not more than 159,140 Aggregate Tuning Hours (ATH) in a month, for each year in the rate term. In addition, if, in any month, a noncommercial webcaster makes total transmissions in excess of 159,140 ATH on any individual channel or station, the noncommercial webcaster shall pay per-performance royalty fees for the transmissions it makes on that channel or station in excess of 159,140 ATH at the rate of **$0.0021 per performance** in 2021. The rates for transmissions over 159,140 ATH per month for the period 2022 through 2025 shall be adjusted to reflect the increases or decreases, if any, in the general price level, as measured by the changes in the CPI-U from that published by BLS in November 2020, as set forth in the regulations adopted by this determination.

The Judges also determine herein details relating to the rates for each category of webcasting service, such as minimum fee and administrative terms, in the following analysis. “Exhibit A” to this determination contains the regulatory language codifying the terms of the Judges’ determination.

GEO 41

LLOYD DOGGETT
35TH DISTRICT, TEXAS

COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON HEALTH
CHAIRMAN
SUBCOMMITTEE ON
SELECT REVENUE MEASURES
COMMITTEE ON BUDGET
JOINT COMMITTEE ON TAXATION

Congress of the United States
House of Representatives

WASHINGTON OFFICE:
2307 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-4865

DISTRICT OFFICES:
217 W TRAVIS
SAN ANTONIO, TX 78205
(210) 704-1080

300 EAST 8TH STREET, SUITE 763
AUSTIN, TX 78701
(512) 916-5921

July 13, 2021

Dr. Carla Hayden, Librarian of Congress
Shira Perlmutter, Register of Copyrights
The Library of Congress
101 Independence Ave SE
Washington, DC 20540

Dear Dr. Hayden and Ms. Perlmutter,

As a Representative covering music communities from San Antonio to Austin, the "Live Music Capitol of the World," some of my songwriter constituents[1] are concerned about some procedural and substantive issues arising in the ongoing "Determination of Royalty Rates and Terms for Making and Distributing Phonorecords (*Phonorecords IV*)" currently pending before the Copyright Royalty Board (CRB). I write to seek some clarity for them and for me. The statutory rates set by the CRB are binding on all songs ever written or that may ever be written by anyone in the world who exploits songs in copyright in the United States. While referred to as a "minimum" I am told that statutory rates in practice are a maximum and are, of course, compulsory. Naturally, I am concerned that we not misstep.

While I know the CRB has not rendered a decision in *Phonorecords IV*, I am trying to understand the process by which the CRB: (1) evaluates settlement agreements proffered by certain parties to a proceeding prior to publishing those settlements for public comment, (2) determines the application of the new "willing buyer/willing seller" standard for rate setting when buyer and seller are related parties, and (3) the degree of transparency that the CRB may require of participants in the proceeding particularly terms of private settlements that the parties voluntarily disclose related to the rates they have negotiated.

In particular, I draw your attention to the *Motion To Adopt Settlement Of Statutory Royalty Rates And Terms For Subpart B Configurations*, Docket No. 21-CRB-0001-PR (2023–2027) filed by the National Music Publishers Association (NMPA), Nashville Songwriters Association International, Sony Music Entertainment, UMG Recordings, Inc. and Warner Music Group Corp.[2] This settlement has provoked concern because of its disclosed terms regarding an additional five-year freeze for "mechanical" royalty rates on phonorecords in the physical and permanent download configurations, and undisclosed terms if adopted by the CRB in its determination.

[1] *ATX Musicians Joins Opposition to Frozen Mechanicals*, The Trichordist, https://thetrichordist.com/2021/05/28/atx-musicians-joins-opposition-to-frozen-mechanicals/
[2] Available at https://app.crb.gov/document/download/25288

The settling parties apparently refer to both a settlement agreement relating to certain mechanical royalty rates and another agreement that refers to undisclosed "negotiated licensing processes and late fee waivers." Those settling parties ask the CRB to adopt their settlement on an "industry-wide basis," and I am trying to better understand what this request means. I do not wish to interfere in the CRB's adjudication of the matters before it, but I hope you can help me understand certain procedural matters relating to the CRB itself.

I would appreciate your answering the following questions at your earliest convenience due to the ongoing nature of both *Phonorecords IV* and other rate setting proceedings before the CRB and thank you in advance for your courtesy.

(1) There appear to be two settlements referenced in the Motion, being the rate setting settlement summarized in draft regulations attached and this other "memorandum of understanding" ("MOU") between Sony Music Entertainment, UMG Recordings, Inc. and Warner Music Group Corp. (i.e., the same parties to the private rate settlement except the NSAI).

Question: May the CRB disclose (or compel the settlement participants to disclose) the unredacted actual settlement agreements referenced in the Motion, including the MOU?

(2) In the Music Modernization Act,[3] Congress directed CRB Judges to set the statutory mechanical royalty rate by utilizing a "willing buyer/willing seller" rate standard designed to model the rates that would be reflected in a free market. In the case of the "industry-wide" settlements proposed by the Motion, it appears that there may be joint ownership of some of the members of the NMPA and the record companies proposing the settlement on rates.

Question: Are the Subpart B rates subject to the "willing buyer/willing seller" rate standard?

Question: If so, what is the rule when the "willing buyer" and "willing seller" are under the same corporate umbrella?

(3) It seems that the participants in the proceeding, and certainly the participants in the settlement, are dominated by major publishers and record companies seeking to impose their private settlement on all other songwriters. If other songwriter groups are not participating in the proceeding but object to the settlement (such as songwriters from more diverse communities) I am concerned that those songwriters may have no recourse.

Question: May the CRB limit the scope of a private party settlement to the parties, but determine a higher rate applies to others?

---

[3] 17 U.S.C. § 115(c)(2)(A).

GEO 41

The Motion and the "frozen mechanicals" issue has prompted considerable public debate in the United States and Europe as reported in The Trichordist artist blog,[4] Billboard,[5] Complete Music Update[6], and the Creative Industries Newsletter.[7] Three NSAI songwriters have published a defense[8] of their participation in the Motion. The Trichordist notes that the CRB produces considerable frustration and passion on all sides because the process is "inequitable, unwieldy and prohibitively expensive."[9]

On page 4 of the Motion, the parties advise the CRB that this settlement represents the "consensus of buyers and sellers representing the vast majority of the market for "mechanical" rights for [physical, permanent downloads]…" Setting aside the issue of the settlement participants representing "buyers" and "sellers" under the same corporate umbrellas, it seems appropriate that every songwriter who will be affected by the outcome of this proceeding, from San Antonio and Austin, Memphis, to Detroit and beyond, should have the opportunity to read and comment meaningfully on the actual settlement agreement posed for adoption, and the related MOU referenced.

I look forward to your response and to continuing to work with you on these matters of such critical importance to our culture and to songwriters everywhere. Please also let me know if you have any other insights to this which may be helpful for my constituents.

Sincerely,

Lloyd J Doggett

Lloyd Doggett

---

[4] https://thetrichordist.com/category/frozen-mechanicals/
[5] https://www.billboard.com/articles/business/9577976/songwriters-crb-royalty-rate-comments-letters/
[6] https://completemusicupdate.com/article/songwriter-groups-urge-us-copyright-royalty-board-to-open-submissions-on-proposed-new-mechanical-royalty-rate-on-discs-and-downloads/
[7] http://legrandnetwork.blogspot.com/2021/06/songwriters-organisations-object-to.html
[8] https://musicrow.com/2021/06/nsai-songwriters-respond-to-criticism-of-decision-not-to-challenge-physical-royalty-rates/
[9] https://thetrichordist.com/2021/06/03/three-nashville-songwriters-respond-on-frozen-mechanicals/

GEO 42

George Harrison Notches First No. 1 on This Chart

Kevin Rutherford 8/18/2021

Captions

- captions off

Michael Putland/Getty Images

GEO 42

George Harrison photographed in Cannes, France on Jan. 30, 1976.

Harrison hits No. 1 thanks to the 50th anniversary reissue of 1970 album 'All Things Must Pass.'

For the first time, George Harrison is No. 1 on Billboard's 15-year-old Top Rock Albums chart as a solo artist.

The 50th anniversary reissue of Harrison's 1970 triple album *All Things Must Pass* debuts at No. 1 on the Top Rock Albums list dated Aug. 21 with 32,000 equivalent album units earned in the U.S. in the week ending Aug. 12, according to MRC Data.

It's Harrison's first leader solo on Top Rock Albums, which began in 2006, exceeding the No. 7 peak of *Early Takes: Volume 1* in 2012.

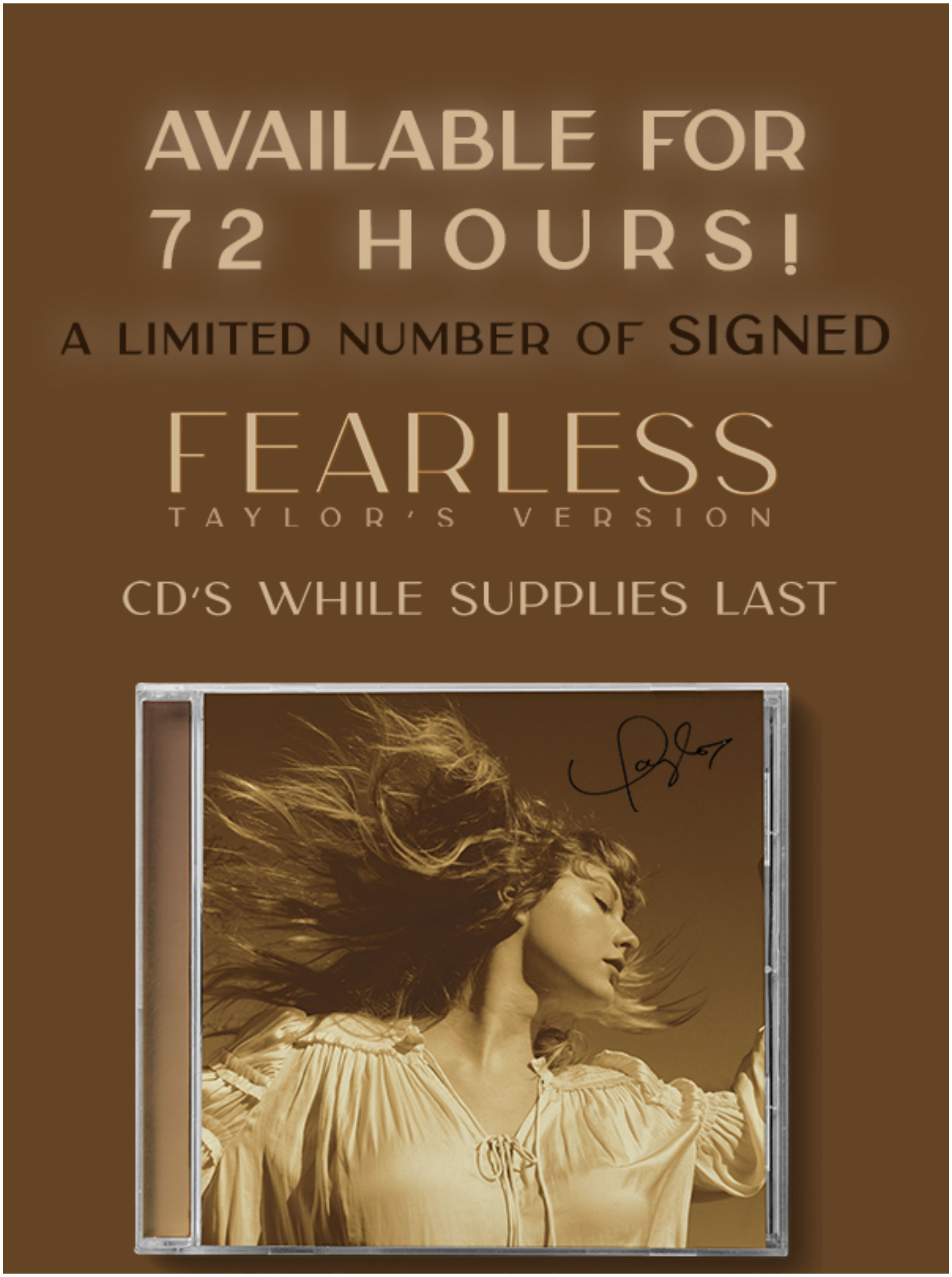
Harrison, who died in 2001, previously crowned Top Rock Albums as part of The Beatles, who boast four No. 1s, most recently upon the 50th anniversary reissue of *Abbey Road*, which crowned the survey for four weeks beginning in October 2019.

Harrison is the second former Beatle to lead Top Rock Albums in 2021. Paul McCartney boasts two rulers this year with *McCartney III* (Jan. 2) and companion release *McCartney III Imagined* (Aug. 7). The other two members of The Beatles -- John Lennon and Ringo Starr -- have both charted on Top Rock Albums as well as soloists. Lennon has placed four entries, including two top 10s, going as high as No. 5 with *Gimme Some Truth* in 2020. Starr has net six charting efforts, topping out at No. 16 with *Y Not* in 2010.

As previously reported, *All Things Must Pass* also re-enters the all-genre Billboard 200 at No. 7, its first appearance within the chart's top 10 since March 1971. It reached No. 1 on the Billboard 200 Jan. 2, 1971, and ruled the

GEO 43

From: **Taylor Nation** noreply@taylorswift.com
Subject: Signed Fearless (Taylor's Version) CD's available now
Date: September 20, 2021 at 10:09 AM
To: george@georgejohnson.com



GEO 44

SHOP NOW

THIS OFFER IS AVAILABLE UNTIL SEPTEMBER 23 AT 9:00AM EDT, WHILE SUPPLIES LAST

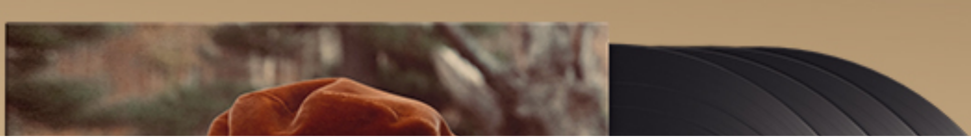
PRE-ORDER VINYL

WHILE SUPPLIES LAST. SHIPPING ON OR ABOUT 10/1

RED
TAYLOR'S VERSION

INCLUDING 9 NEW VAULT TRACKS!

COLLECT ALL FOUR DISCS WHILE SUPPLIES LAST



GEO 45

Our mailing address is:
Taylor Nation, LLC
242 West Main Street
PMB 412
Hendersonville, TN 37075

GEO 46


BILLY JOEL
THE VINYL COLLECTION, VOL. 1
COLUMBIA
BILLY JOEL
STREETLIFE
BILLY JOEL TURNSTILES
BILLY JOEL THE STRANGER
SONGS IN THE ATTIC
BILLY JOEL
52nd STREET
BILLY JOEL

GEO 47

From: **Billy Joel** BillyJoel@fans.legacyrecordings.com
Subject: New Release: The Vinyl Collection Volume 1 - Learn more about this exciting release inside
Date: September 15, 2021 at 5:14 PM
To: george@georgejohnson.com

BJ

View as Web p

50 BILLY JOEL

Billy Joel - *The Vinyl Collection, Vol.1*

A definitive 9LP library chronicling Billy Joel's evolution as a songwriter, performer and recording artist during his rise from obscurity to international superstardom in the 1970s.

READ MORE

See the releases included the boxset below and tap any to learn more about the box set.

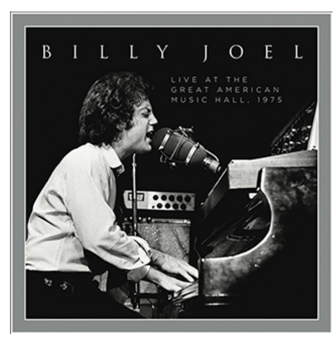
Piano Man - 1973

The Stranger - 1977

Songs In The Attic - 1981

Turnstiles - 1976

52nd Street - 1978



Streetlife Serenade - 1974

Cold Spring Harbor - 1971

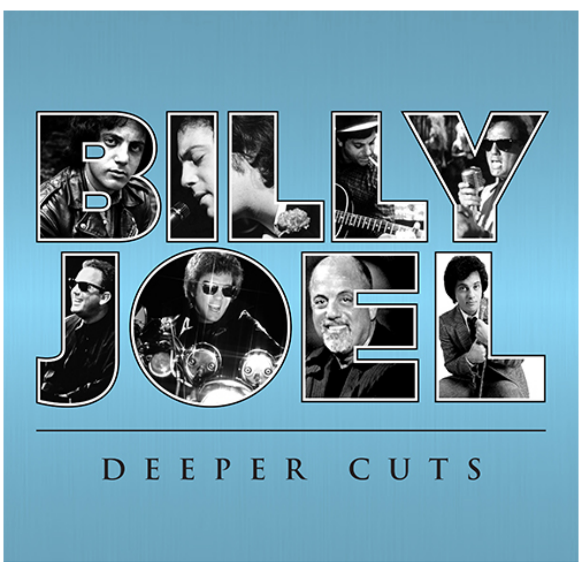
Live at The Great American Music Hall - 1975

PRE-ORDER

Star-Studded Rendition of “New York State of Mind”

NYCNext convened a star-studded edition of Billy Joel’s “love song” to NYC features Idina Menzel, Stephen Colbert, Sara Bareilles, Cautious Clay, Mario Cantone, Andy Cohen, Chloe Flower, Peppermint, and more with a special appearance and performance by Alexa Ray Joel.

WATCH NOW



The Deeper Cuts Playlist

Explore beyond Billy Joel’s biggest hits with a playlist of fan favorites from across his entire career.

START LISTENING

GEO 47

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How We Use Your Data
Terms & Conditions
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New York, NY, 10010

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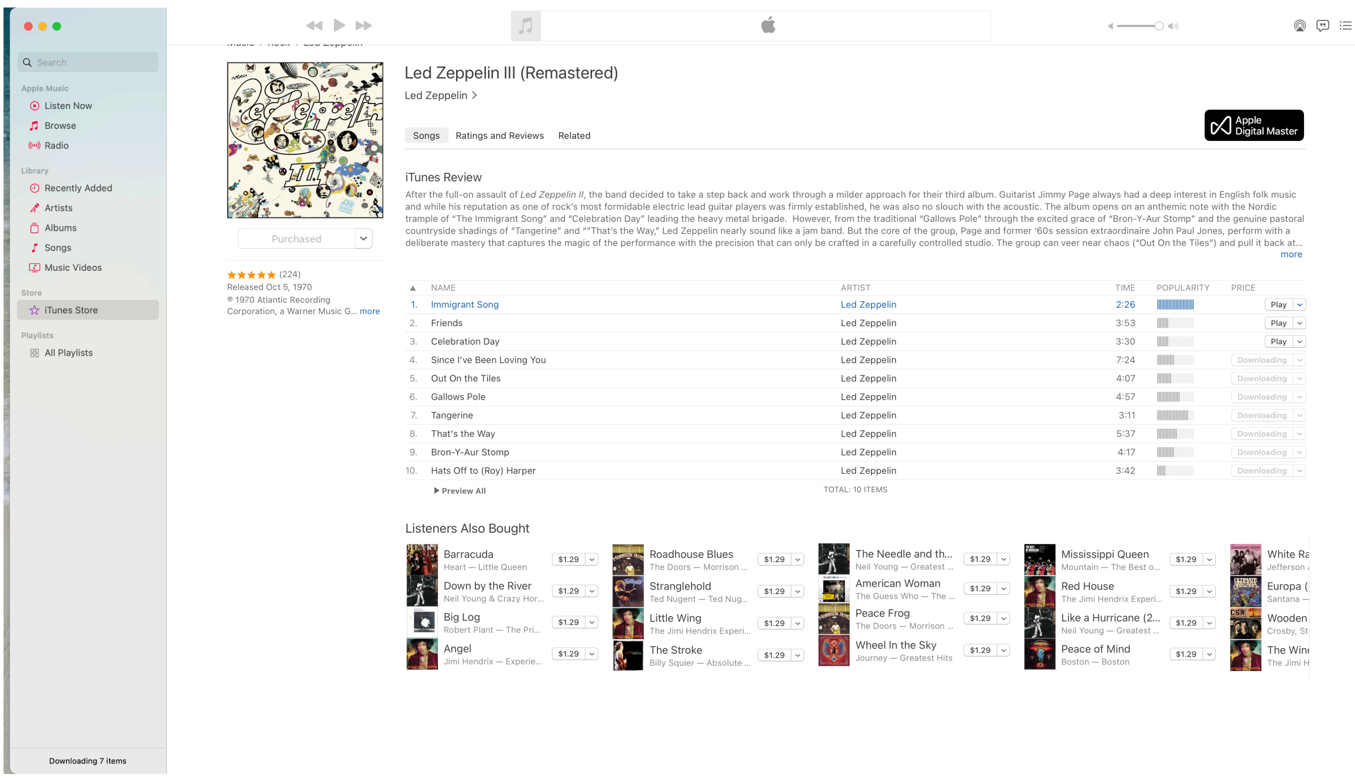
GEO 48


Search
Apple Music
Listen Now
Browse
Radio
Library
Recently Added
Artists
Albums
Songs
Music Videos
Store
iTunes Store
Playlists
All Playlists
Downloading 7 items
Purchased
(224)
Released Oct 5, 1970
℗ 1970 Atlantic Recording Corporation, a Warner Music G... more
Led Zeppelin III (Remastered)
Led Zeppelin >
Songs
Ratings and Reviews
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Apple Digital Master
iTunes Review
After the full-on assault of Led Zeppelin II, the band decided to take a step back and work through a milder approach for their third album. Guitarist Jimmy Page always had a deep interest in English folk music and while his reputation as one of rock's most formidable electric lead guitar players was firmly established, he was also no slouch with the acoustic. The album opens on an anthemic note with the Nordic trample of "The Immigrant Song" and "Celebration Day" leading the heavy metal brigade. However, from the traditional "Gallows Pole" through the excited grace of "Bron-Y-Aur Stomp" and the genuine pastoral countryside shadings of "Tangerine" and ""That's the Way," Led Zeppelin nearly sound like a jam band. But the core of the group, Page and former '60s session extraordinaire John Paul Jones, perform with a deliberate mastery that captures the magic of the performance with the precision that can only be crafted in a carefully controlled studio. The group can veer near chaos ("Out On the Tiles") and pull it back at...
more
NAME ARTIST TIME POPULARITY PRICE
1. Immigrant Song Led Zeppelin 2:26 Play
2. Friends Led Zeppelin 3:53 Play
3. Celebration Day Led Zeppelin 3:30 Play
4. Since I've Been Loving You Led Zeppelin 7:24 Downloading
5. Out On the Tiles Led Zeppelin 4:07 Downloading
6. Gallows Pole Led Zeppelin 4:57 Downloading
7. Tangerine Led Zeppelin 3:11 Downloading
8. That's the Way Led Zeppelin 5:37 Downloading
9. Bron-Y-Aur Stomp Led Zeppelin 4:17 Downloading
10. Hats Off to (Roy) Harper Led Zeppelin 3:42 Downloading
Preview All
TOTAL: 10 ITEMS
Listeners Also Bought
Barracuda
Heart — Little Queen
$1.29
Down by the River
Neil Young & Crazy Hor...
$1.29
Big Log
Robert Plant — The Pri...
$1.29
Angel
Jimi Hendrix — Experie...
$1.29
Roadhouse Blues
The Doors — Morrison ...
$1.29
Stranglehold
Ted Nugent — Ted Nug...
$1.29
Little Wing
The Jimi Hendrix Experi...
$1.29
The Stroke
Billy Squier — Absolute ...
$1.29
The Needle and th...
Neil Young — Greatest ...
$1.29
American Woman
The Guess Who — The ...
$1.29
Peace Frog
The Doors — Morrison ...
$1.29
Wheel In the Sky
Journey — Greatest Hits
$1.29
Mississippi Queen
Mountain — The Best o...
$1.29
Red House
The Jimi Hendrix Experi...
$1.29
Like a Hurricane (2...
Neil Young — Greatest ...
$1.29
Peace of Mind
Boston — Boston
$1.29


"The problem was to distribute music. Not to give you money, okay?"
—Jim Anderson
Spotify

AGREEMENT

This Agreement is made and entered into by and between Recording Industry Association of America, Inc. ("RIAA"), Digital Media Association, Inc. ("DiMA"), National Music Publishers' Association, Inc. ("NMPA"), Songwriters Guild of America ("SGA"), Nashville Songwriters Association International ("NSAI") and The Harry Fox Agency, Inc. ("HFA") (each individually a "Party," and collectively, the "Parties") as of the date it is fully executed by all of the Parties (the "Effective Date").

WHEREAS, RIAA, DiMA, NMPA, SGA and NSAI are participating in the proceeding before the Copyright Royalty Judges ("CRJs") captioned *Matter of Mechanical & Digital Phonorecord Delivery Rate Adjustment Proceedings*, Docket No. 2006-3 CRB DPRA (the "Proceeding");

WHEREAS, HFA is a subsidiary of NMPA and has issued numerous licenses pursuant to 17 U.S.C. § 115 to members of RIAA and DiMA; and

WHEREAS, the Parties wish to settle the Proceeding insofar as it concerns certain methods of music distribution;

NOW, THEREFORE, for and in consideration of the foregoing, of the mutual covenants and undertakings contained herein and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

1. Partial Settlement of the Proceeding.

1.1. Notice of Partial Settlement. The Parties agree, on their own behalf and on behalf of such of their members as have appeared in and are participating in the Proceeding ("participating members"), to jointly file with the CRJs on May 15, 2008 an application in the form of Exhibit A ("the motion") notifying the CRJs that the Parties have reached a partial settlement of the Proceeding with respect to the categories of use addressed in the provisions set forth on Exhibit B (the agreed rates and terms as set forth in Exhibit B also referred to herein as "the settlement").

1.2 Timing. The Parties shall delay submission to the CRJs of the provisions set forth on Exhibit B until the latest practicable date so as to avoid any effect of the rates provided in Exhibit B on other royalty rates under 17 U.S.C. § 115 still under review by the CRJs. The Parties shall make such submission on September 15, 2008 or later if permitted by the CRJs, except, subject to subsection 1.5(c)(1), as otherwise may be required by the CRJs.

1.3. Petition. At the latest practicable date, the Parties shall, on their own behalf and on behalf of their participating members, file a joint petition with the CRJs pursuant to 17 U.S.C. § 801(b)(7) and 37 C.F.R. § 351.2 seeking adoption of the rates and terms set forth on Exhibit B in their entirety as the rates and terms under 17 U.S.C.

§ 115 for the activities addressed therein. Such petition shall specify that the Parties believe the uses addressed in the provisions set forth on Exhibit B to encompass all incidental digital phonorecord deliveries, as well as all general digital phonorecord deliveries in the form of limited downloads, that in either case are currently known and for which rates are currently being sought. The petition will advise the CRJs that the settlement represents part of a larger compromise of a number of interrelated disputes and issues among the Parties, including certain litigation currently pending in federal court, and that the parties do not intend that the rates and terms included in the settlement be considered in any way precedential with respect to the issues still pending before the CRJs.

1.4. Remainder of Case. Upon filing of the motion, the Parties agree to the following for the remainder of the conduct of the Proceeding:

(a) Within 10 business days of such filing, each Party shall modify its current rate proposal in the Proceeding so as not to propose rates with respect to the uses addressed in the provisions set forth on Exhibit B and, thereafter, no party shall propose rates in the Proceeding with respect to the uses addressed in the provisions set forth on Exhibit B other than by means of the petition described in subsection 1.3.

(b) Unless required to do so by the CRJs, no Party shall in its findings of fact or conclusions of law specifically address determination of a reasonable royalty rate with respect to the uses addressed in the provisions set forth on Exhibit B.

1.5. Confidentiality.

(a) Except as may be required by law or the rules of professional conduct applicable to practice before the CRJs, until the time for filing of the petition described in subsection 1.2 (or indefinitely if this Agreement is terminated before the filing of such petition), each Party shall maintain as confidential and shall not disclose the terms of this Agreement (including those set forth on Exhibit B), in whole or in part, directly or indirectly, to any other person or entity except its members represented on its board or another Party, in either case with a need to know the same, in either case only if the recipient has first agreed, either in writing or through a confirming email sent to the disclosing Party, to the terms of a nondisclosure agreement substantially in the form of Exhibit C. Each Party shall use at least the same degree of care as it uses with respect to its own confidential information of a similar nature, but in no event less than reasonable care, to protect the terms set forth on Exhibit B from unauthorized disclosure.

(b) Upon notifying the CRJs of the settlement, to the extent that the CRJs have questions concerning the scope of the settlement, the Parties shall provide truthful characterizations of the uses addressed in the settlement, and, if germane, specify the information that would be required to be included in the petition described in subsection 1.3, but the Parties shall not disclose the royalty rates or other information concerning the provisions set forth on Exhibit B unless required to do so by ruling of the CRJs or otherwise by law. The Parties shall conduct themselves in every manner consistently with such intent throughout the remainder of the Proceeding, including in oral statements, the presentation of testimony and evidence, and in written submissions.

(c) Should the Parties, despite their intent to keep confidential the specific terms of the settlement until September 15, 2008, nonetheless be required by the CRJs to disclose the terms set forth on Exhibit B –

(1) prior the CRJs' acknowledgment that the categories of use in Exhibit B need no longer be litigated in the Proceeding and that Exhibit B need not be filed with the CRJs until September 15, 2008, any Party shall have the right to terminate this Agreement, it being understood that each Party shall be restored to its current position in the Proceeding prior to notifying the CRJs of the settlement; or

(2) notwithstanding the CRJs' prior acknowledgment that the categories of use in Exhibit B need no longer be litigated in the Proceeding and that Exhibit B need not be filed with the CRJs until September 15, 2008, the settlement will remain in effect; provided, however, that the Parties first shall use their best efforts to obtain reconsideration of such requirement; and further provided that in submitting such rates and terms to the CRJs shall reiterate in an accompanying written submission their intentions concerning confidentiality and the nonprecedential nature of the settlement as set forth in this Agreement.

(d) If, despite the Parties' intent to keep the specific terms of the settlement confidential until September 15, any such terms become publicly known through a leak of confidential information, through a media report or otherwise, each Party shall –

(1) act in good faith to counteract the potential effect of any such leak, including, if requested by any Party, submitting a joint statement with the other Parties to the CRJs reiterating the Parties' intentions concerning confidentiality and the nonprecedential nature of the settlement as described in this Agreement, and if the publicly known information is in any way inaccurate stating that such information is inaccurate; and

(2) if requested by any Party, issue a public statement that such information is from an unauthorized source and should not be relied upon, and that such Party is expressly refusing to confirm any such information, and if the publicly known information is in any way inaccurate stating that such information is inaccurate.

2. Implementation

2.1. HFA Licenses. HFA agrees that it will work with RIAA, DiMA and their respective member companies in good faith to issue licenses with respect to the uses addressed in the provisions set forth on Exhibit B by means of processes substantially similar to those it uses for licensing of other types of digital phonorecord deliveries, subject to the licensing authority HFA has obtained from its publisher-principals. Notwithstanding the foregoing, NMPA and HFA hereby represent that HFA publisher-principals that have recently withdrawn authority from HFA for licensing of subscription services have committed to NMPA and HFA that they will promptly provide written direction restoring such authority and have advised NMPA and HFA that they have no current intention of discontinuing such authority once it is restored. Prior to the date of adoption of the regulations proposed in Exhibit B, HFA shall make available to RIAA members at no charge a simplified mechanism for RIAA members to obtain licenses for licensed activity subject to the promotional royalty rate for musical works previously licensed to them through HFA.

2.2. Transition. The Parties acknowledge that the royalty rates and terms set forth in Exhibit B require new and complex calculations using data that in the past may not have been kept and maintained in a form readily useable for performing such calculations. As a result, it is acknowledged that payers of royalties are likely to need to undertake substantial efforts to develop and test systems and gather the data necessary to make past and prospective payments under the royalty rates and terms set forth in Exhibit B. Due to these facts, the permissible time for payment for past uses contained in Exhibit B is significantly longer than would otherwise have been agreed by NMPA, SGA and NSAI. DiMA, on behalf of its members, agrees that notwithstanding the longer payment period provided in Exhibit B and the future adoption of same as a regulatory provision, payment to HFA for any uses pursuant to a duly issued HFA license during a quarter then ended for more than 45 days shall be required within 90 days after such publication, and at the same time DiMA members shall provide RIAA members the information necessary for the RIAA members to account for licensed activity by DiMA members authorized by such RIAA members. For the avoidance of doubt, the terms of this subsection 2.2 shall apply notwithstanding any contrary provision in the October 2001 Agreement between RIAA, NMPA and HFA to license music subscription services or similar agreement modeled on such agreement. All Parties shall act in good faith with respect to addressing problems in making payments under the royalty rates and terms set forth in Exhibit B.

3. Agreement Non-Precedential. The royalty rates and terms set forth in Exhibit B are nonprecedential in nature and based on the Parties' current understanding of industry practices and market and legal conditions, among other things. Such royalty rates and terms shall be subject to *de novo* review and consideration in future proceedings before the CRJs. Such royalty rates and terms shall not be cited, relied upon, proffered as evidence or otherwise used in the Proceeding, any appeal of the CRJs' determination in the Proceeding, or in connection with any action by the Register of Copyrights pursuant to 17 U.S.C. § 802(f)(1)(D) in connection with the Proceeding, except as specifically provided in and/or required by this Agreement. In any proceeding to set royalty rates and terms under 17 U.S.C. § 115, no Party shall cite or rely upon

any characterization of this Agreement (including Exhibit B) in the motion described in subsection 1.1, the petition described in subsection 1.3 or this Agreement itself to establish that this Agreement was part of a larger compromise of interrelated disputes, nor shall any Party cite or rely upon this sentence to establish that this Agreement was not part of a larger compromise of interrelated disputes; provided that a Party nonetheless may present evidence or argument to the same effect without reliance on any such characterization or this sentence.

4. Noninteractive Streaming. The Parties agree that the process of making noninteractive streams is not subject to licensing or payment of royalties. For purposes of this Agreement, a noninteractive stream is an audio-only stream of a musical work, as defined in Exhibit B, that is not an interactive stream, as defined in Exhibit B, except that a noninteractive stream does not include a stream made by a transmitting entity that takes affirmative steps to cause or induce the making of reproductions of musical works by or for end users that are accessible for future listening by end users, unless valid license authority for the making and distribution of such reproductions has been obtained by the transmitting entity. The understanding in this section 4 extends to all reproduction and distribution rights in musical works that may be necessary for the provision of noninteractive streaming, solely for the purpose of providing noninteractive streaming (and no other purpose). For the avoidance of doubt, this section 4 does not apply to public performance rights, audiovisual works, lyrics in text form or other uses that are not noninteractive streams.

5. Support for Settlement.

5.1 After filing the petition described in subsection 1.3, the Parties shall in good faith advocate, and use commercially reasonable efforts to secure, adoption of Exhibit B in its entirety as a settlement pursuant to 17 U.S.C. § 801(b)(7) and 37 C.F.R. § 351.2, or otherwise as part of the determination in the Proceeding.

5.2 Without limiting subsection 5.1, in any further proceedings in the Proceeding, any appeal of the CRJs' determination in the Proceeding, or in connection with any action by the Register of Copyrights in connection with the Proceeding or other action by the Register of Copyrights (e.g., a rulemaking proceeding) before 2013 that could materially impact the matters addressed in the settlement (including without limitation an action to address the legal status of interactive or noninteractive streaming activities or server, cached, network or RAM buffer copies of musical works in relation to 17 U.S.C. § 115), if the issue is germane, such Party will, in an appropriate written submission –

(a) affirmatively state that the Party interprets current law as follows: (i) licenses from copyright owners of musical works are required under 17 U.S.C. § 115 to engage in the process of interactive streaming, including the making and/or transmission of server, cached, network and RAM buffer copies necessary to engage in such activity; (ii) the process of interactive streaming involves the making of incidental digital phonorecord deliveries and falls within the scope of 17 U.S.C. § 115; and (iii) licenses for interactive streaming and limited downloads under 17 U.S.C. § 115 include the right to make necessary server, cache, network and RAM buffer copies, as more specifically set forth in the provisions of Exhibit B (and not take any position that would undermine these positions); and

(b) affirmatively state that the Party interprets current law as follows: licenses from copyright owners of musical works are not required to engage in the process of noninteractive streaming, including the making and/or transmission of server, cached, network and RAM buffer copies necessary to engage in such activity (and not take any position that would undermine this position.

For the avoidance of doubt, if a Party otherwise is not participating in the relevant phase or appeal of the Proceeding, to the extent germane to such phase or appeal, a simple and appropriately filed written submission adopting the positions embodied in the above paragraphs (A) and (B) shall suffice to meet such Party's obligation hereunder. Additionally, notwithstanding the foregoing, the Parties shall be excused from the foregoing obligations of this subsection 5.2 to the extent there is a final determination in the Proceeding or an appeal thereof that is inconsistent with the positions set forth in this subsection 5.2 and is unappealable or not appealed within the applicable time. For the avoidance of doubt, except to the extent expressly set forth herein, neither this subsection 5.2 nor anything else in this Agreement supersedes or vitiates any obligation under the October 2001 Agreement between RIAA, NMPA and HFA to license music subscription services.

5.3 No Contrary Position. Provided that the petition contemplated by subsection 1.3 results in the adoption of nonappealable final regulations that in material respects conform with the provisions set forth in Exhibit B, no Party shall, on its own behalf or acting through a member or other third party take, encourage or advocate for, or lend financial, legal or other support to, a position contrary to those set forth in subsection 5.2(a) and (b) before any court, administrative agency or governmental body.

5.4 Press Release. Upon submission of the petition described in subsection 1.3 and otherwise as may be agreed by the Parties, the Parties shall jointly issue a press release announcing the settlement and including the understandings set forth in subsections 5.2(a) and (b).

6. Future Cooperation. The Parties agree to discuss in good faith a resolution of the remaining issues in the Proceeding, including a proposal by DiMA to settle the rate for full downloads. Additionally, in the event that, despite the Parties' efforts as required by section 5, the provisions of Exhibit B are not adopted as final regulations governing the relevant uses of musical works pursuant to 17 U.S.C. § 115, or not adopted in full, the Parties agree to discuss in good faith the possibility of entering into a private agreement pursuant to 17 U.S.C. § 115 that attempts to achieve as nearly as possible the objectives (or remaining objectives) of Exhibit B.

7. Pending Claims. Within 5 days of the Effective Date those NMPA members that are plaintiffs in that certain litigation titled **Sony/ATV Songs LLC v. MusicNet, Inc. d/b/a MediaNet Digital** and DiMA member MediaNet shall enter into a stipulation providing for the prompt dismissal without prejudice of such litigation, to be converted to a dismissal with prejudice with an appropriate release of such plaintiffs' claims in that litigation against MediaNet

following the final nonappealable adoption of Exhibit B as final and binding regulations. In addition, upon the Effective Date, NMPA and HFA covenant and agree not to commence, encourage, finance or otherwise support litigation against RealNetworks, Rhapsody America LLC, Listen.com LLC, any of their employees arising from the alleged breach of Rhapsody's November 2001 subscription service agreement with HFA arising out Mr. Kirk's written and potential live testimony in the Proceeding; provided, however, that such agreement shall automatically become null and void should the settlement be rejected by the CRJs or if it should otherwise become apparent that Exhibit B will not be adopted as final and binding regulations.

8. Legislation. The Parties agree that within 15 business days of executing this Agreement they shall seek to meet with the Chairman and Ranking Republican Member of the House Judiciary Committee and its Subcommittee on Courts, the Internet and Intellectual Property, and with the Chairman and Ranking Republican Member of the Senate Judiciary Committee, and inform those Members of Congress of the Parties' intention to pursue legislative enactment of necessary statutory changes consistent with the purpose and goals of this Agreement, including the Parties' understandings on interactive and noninteractive streaming. Such proposed legislation shall also include a blanket-style licensing mechanism.

9. Miscellaneous.

9.1. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the District of Columbia (without giving effect to conflicts of law principles thereof).

9.2. Amendment. This Agreement may be modified or amended only by a writing signed by each of the Parties.

9.3. Counterparts. This Agreement may be executed in counterparts, including by means of facsimile, each of which shall be deemed to be an original, but which taken together shall constitute one agreement.

9.4. Entire Agreement. This Agreement expresses the entire understanding of the Parties concerning the subject matter hereof and, except as expressly provided herein, supersedes all prior and contemporaneous agreements and undertakings of the Parties with respect to the subject matter hereof.

In witness whereof, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the dates shown.

RECORDING INDUSTRY ASSOCIATION OF AMERICA, INC.

By: Mitch Bainwol / [illegible]
Name: Mitch Bainwol
Date: 5-14-08

DIGITAL MEDIA ASSOCIATION, INC.

By: Jonathan Potter
Name: Jonathan Potter
Date: 5/14/08

NATIONAL MUSIC PUBLISHERS' ASSOCIATION, INC.

By: ____________________
Name: ____________________
Date: ____________________

SONGWRITERS GUILD OF AMERICA

By: ____________________
Name: ____________________
Date: ____________________

NASHVILLE SONGWRITERS ASSOCIATION INTERNATIONAL

By: ____________________
Name: ____________________
Date: ____________________

THE HARRY FOX AGENCY, INC.

By: ____________________
Name: ____________________
Date: ____________________

In witness whereof, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the dates shown.

RECORDING INDUSTRY ASSOCIATION OF AMERICA, INC.

By: ______________________
Name: ______________________
Date: ______________________

DIGITAL MEDIA ASSOCIATION, INC.

By: ______________________
Name: ______________________
Date: ______________________

NATIONAL MUSIC PUBLISHERS' ASSOCIATION, INC.

By: ______________________
Name: DAVID ISRAELITE
Date: 5/14/08

SONGWRITERS GUILD OF AMERICA

By: ______________________
Name: ______________________
Date: ______________________

NASHVILLE SONGWRITERS ASSOCIATION INTERNATIONAL

By: ______________________
Name: ______________________
Date: ______________________

THE HARRY FOX AGENCY, INC.

By: ______________________
Name: ______________________
Date: ______________________

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In witness whereof, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the dates shown.

RECORDING INDUSTRY ASSOCIATION OF AMERICA, INC.

By: ______________________
Name: ______________________
Date: ______________________

DIGITAL MEDIA ASSOCIATION, INC.

By: ______________________
Name: ______________________
Date: ______________________

NATIONAL MUSIC PUBLISHERS' ASSOCIATION, INC.

By: ______________________
Name: RICK CARNES
Date: 5/14/08

SONGWRITERS GUILD OF AMERICA

By: ______________________
Name: ______________________
Date: ______________________

NASHVILLE SONGWRITERS ASSOCIATION INTERNATIONAL

By: ______________________
Name: ______________________
Date: ______________________

THE HARRY FOX AGENCY, INC.

By: ______________________
Name: ______________________
Date: ______________________

Error! Unknown document property name.

In witness whereof, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the dates shown.

RECORDING INDUSTRY ASSOCIATION OF AMERICA, INC.

By: ____________________
Name: ____________________
Date: ____________________

DIGITAL MEDIA ASSOCIATION, INC.

By: ____________________
Name: ____________________
Date: ____________________

NATIONAL MUSIC PUBLISHERS' ASSOCIATION, INC.

By: ____________________
Name: ____________________
Date: ____________________

SONGWRITERS GUILD OF AMERICA

By: ____________________
Name: ____________________
Date: ____________________

NASHVILLE SONGWRITERS ASSOCIATION INTERNATIONAL

By: Steve Bogard
Name: Steve Bogard
Date: 5/14/08

THE HARRY FOX AGENCY, INC.

By: ____________________
Name: ____________________
Date: ____________________

In witness whereof, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the dates shown.

RECORDING INDUSTRY ASSOCIATION OF AMERICA, INC.

By: ____________________
Name: ____________________
Date: ____________________

DIGITAL MEDIA ASSOCIATION, INC.

By: ____________________
Name: ____________________
Date: ____________________

NATIONAL MUSIC PUBLISHERS' ASSOCIATION, INC.

By: ____________________
Name: ____________________
Date: ____________________

SONGWRITERS GUILD OF AMERICA

By: ____________________
Name: ____________________
Date: ____________________

NASHVILLE SONGWRITERS ASSOCIATION INTERNATIONAL

By: ____________________
Name: ____________________
Date: ____________________

THE HARRY FOX AGENCY, INC.

By: [signature]
Name: Gary Churgin
Date: 5/14/08

EXHIBIT A

Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
Washington, D.C.

In the Matter of Mechanical and Digital Phonorecord Delivery Rate Adjustment Proceeding	Docket No. 2006-3 CRB DPRA

JOINT MOTION TO ADOPT PROCEDURES FOR SUBMISSION OF PARTIAL SETTLEMENT (Expedited Treatment Requested)

The National Music Publishers' Association, Inc., the Songwriters Guild of America and the Nashville Songwriters Association International (the "Copyright Owners"), the Recording Industry Association of America ("RIAA"), and the Digital Media Association ("DiMA") (collectively, the "Parties") respectfully notify the Copyright Royalty Judges that they have reached a settlement of rates and terms under section 115 of the Copyright Act in the above-referenced proceeding for limited downloads and interactive streaming, including all known incidental digital phonorecord deliveries (the "settlement"). Because essential terms of that settlement relate to when the settlement will be submitted to this Court and because of ongoing settlement discussions concerning other issues, the Parties respectfully request that the Court adopt the procedures set forth below for the submission of the settlement to the Court.

As the Court knows, the Parties have been engaged in settlement discussions to resolve this proceeding. The Parties are continuing to work toward resolution of rates and terms for physical products, permanent downloads and ringtones , and hope ultimately to be able to present a comprehensive settlement to the Court.

Complete confidentiality of the agreed upon rates and terms of thesettlement is an essential condition of the settlement. The Parties believe confidentiality is necessary because it is an express condition of settlement that the agreed upon rates and terms shall play no role in the determination of the remainder of rates and terms in this proceeding for physical products, permanent downloads and ringtones. To that end, the Parties have agreed that the settlement is terminable in the event they are required to reveal its terms prematurely. Accordingly, the Parties have agreed not to submit the agreed upon rates and terms to the Copyright Royalty Judges until September 15, 2008 or later, if practicable. This date is in advance of the Court's statutory deadline for issuing a decision in this proceeding. Because the settlement in this proceeding is one in a series of interdependent agreements, termination of this settlement would also terminate other agreements and potential settlements in other contexts, including for example, litigation pending in the United States District Court for the Southern District of New York that is currently proceeding on a compressed schedule.

Thus, it is crucial to the viability of the settlement that the parties submit the rates and terms to the Court no earlier than September 15, 2008.[1] For these reasons, the Parties respectfully request, pursuant to 17 U.S.C. § 801(b)(7)(A) and section 351.2(b) of the Rules of the Copyright Royalty Judges, 37 C.F.R. § 351.2(b), that the Copyright Royalty Judges (i) authorize the Parties to submit the agreed upon rates and terms on September

[1] In the event that the Parties reach a global settlement covering all of the other products at issue in this proceeding, there will be no need to delay the submission of all of the agreed upon rates and terms, and the Parties will submit them immediately.

15, 2008, or if practicable, a date thereafter set by the CRJs; and (ii) amend the Scheduling Order dated November 20, 2007 to relieve the Parties from any obligation to address in their Findings of Fact and Conclusions of Law or Replies to Findings of Fact and Conclusions of Law any rates and terms for limited downloads or interactive streaming, or the category of incidental digital phonorecord deliveries. As the Court knows, it has previously authorized this type of procedure. For example, in the proceeding to set rates and terms for the Pre-existing Subscription Services, the Court accepted the parties' representation of a settlement in June of 2007, allowing parties to withdraw entirely from the proceeding, and then directed submission of the settlement at a much later date. *See* 62 Fed. Reg. 61585 (Oct. 31, 2007) (seeking comment on settlement entered June 12, 2007 and filed on October 19, 2007). The Parties respectfully submit that the same should be allowed in the present proceeding.

Because of the time-sensitive nature of this motion – most notably because of the impact it would have on the need to address the subject matter of the settlement in findings – the Parties further request that the Court consider this motion on an expedited basis.

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Respectfully submitted,

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Counsel for The Digital Media Association

May 15, 2008

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of May 2008, I caused a true and correct copy of the foregoing "Joint Motion to Accept Partial Settlement" to be served by email and first class mail on the following:

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____
Kelley Shields

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CONFIDENTIAL
FOR SETTLEMENT PURPOSES ONLY

EXHIBIT B

PART 383--RATES AND TERMS FOR USE OF MUSICAL WORKS IN INTERACTIVE STREAMING, OTHER INCIDENTAL DIGITAL PHONORECORD DELIVERIES AND LIMITED DOWNLOADS

Sec.

Authority: 17 U.S.C. 115, 801(b)(7), 804(b)(4).

§ 383.1 General.

(a) *Scope*. This part 383 establishes rates and terms of royalty payments for interactive streams and limited downloads of musical works by subscription and nonsubscription digital music services in accordance with the provisions of 17 U.S.C. 115.

(b) *Legal Compliance*. A licensee that makes or authorizes interactive streams or limited downloads of musical works through subscription or nonsubscription digital music services pursuant to 17 U.S.C. 115 shall comply with the requirements of that section, the rates and terms of this part, and any other applicable regulations.

§ 383.2 Definitions.

For purposes of this part, the following definitions shall apply:

(a) *Interactive stream* means a stream of a sound recording of a musical work, where the performance of the sound recording by means of the stream is not exempt under 17 U.S.C. 114(d)(1) and does not in itself or as a result of a program in which it is included qualify for statutory licensing under 17 U.S.C. 114(d)(2). An interactive stream is an incidental digital phonorecord delivery under 17 U.S.C. 115(c)(3)(C) and (D).

(b) *Licensee* means a person that has obtained a compulsory license under 17 U.S.C. 115 and its implementing regulations.

(c) *Licensed activity* means interactive streams or limited downloads of musical works, as applicable.

(d) *Limited download* means a digital transmission of a sound recording of a musical work to an end user, other than a stream, that results in a specifically identifiable reproduction of that sound recording that is only accessible for listening for –

> (1) an amount of time not to exceed 1 month from the time of the transmission (unless the service, in lieu of retransmitting the same sound recording as another limited download, separately and upon specific request of the end user made through a live network connection, reauthorizes use for another time period not to exceed 1 month), or in the case of a subscription transmission, a period of time following the end of the applicable subscription no longer than a subscription renewal period or 3 months, whichever is shorter; or
>
> (2) a specified number of times not to exceed 12 (unless the service, in lieu of retransmitting the same sound recording as another limited download, separately and upon specific request of the end user made through a live network connection, reauthorizes use for another series of 12 or fewer plays), or in the case of a subscription transmission, 12 times after the end of the applicable subscription.

A limited download is a general digital phonorecord delivery under 17 U.S.C. 115(c)(3)(C) and (D).

(e) *Offering* means a service's offering of licensed activity that is subject to a particular rate set forth in § 383.4(a) (e.g., a particular subscription plan available through the service).

(f) *Promotional royalty rate* means the statutory royalty rate of zero in the case of certain promotional interactive streams and certain promotional limited downloads, as provided in § 383.5.

(g) *Publication date* means **[insert date of publication of these regulations in the Federal Register as a final rule]**.

(h) *Record company* means a person or entity that (i) is a copyright owner of a sound recording of a musical work; (ii) in the case of a sound recording of a musical work fixed before February 15, 1972, has rights to the sound recording, under the common law or statutes of any State, that are equivalent to the rights of a copyright owner of a sound recording of a musical work under Title 17, United States Code; (iii) is an exclusive licensee of the rights to reproduce and distribute a sound recording of a musical work; or (iv) performs the functions of marketing and authorizing the distribution of a sound recording of a musical work under its own label, under the authority of the copyright owner of the sound recording.

(i) *Relevant page* means a page (including a web page, screen or display) from which licensed activity offered by a service is directly available to end users, but only where the offering of licensed activity and content that directly relates to the offering of licensed activity (e.g., an image of the artist or artwork closely associated with such offering, artist or album information, reviews of such offering, credits and music player controls) comprises 75% or more of the space on that page, excluding any space occupied by advertising. A licensed activity is directly available to end users from a page if sound recordings of musical works can be accessed by end users for limited downloads or interactive streams from such page (in most cases this will be the page where the limited download or interactive stream takes place).

(j) *Service* means that entity (which may or may not be the licensee) that, with respect to the licensed activity, (i) contracts with or has a direct relationship with end users in a case where a contract or relationship exists, or otherwise controls the content made available to end users; (ii) is able to report fully on service revenue from the provision of the licensed activity to the public, and to the extent applicable, verify service revenue through an audit; and (iii) is able to report fully on usage of musical works by the service, or procure such reporting, and to the extent applicable, verify usage through an audit.

(k) *Service revenue*.

(1) Subject to paragraphs (2) through (5), and subject to U.S. Generally Accepted Accounting Principles, *service revenue* shall mean the following:

(i) all revenue recognized by the service from end users from the provision of licensed activity;

(ii) all revenue recognized by the service by way of sponsorship and commissions as a result of the inclusion of third-party "in-stream" or "in-download" advertising as part of licensed activity (i.e., advertising placed immediately at the start, end or during the actual delivery, by way of interactive streaming or limited downloads, as applicable, of a musical work); and

(iii) all revenue recognized by the service, including by way of sponsorship and commissions, as a result of the placement of third-party advertising on a relevant page of the service or on any page that directly follows such relevant page leading up to and including the limited download or interactive streaming, as applicable, of a musical work; provided that, in the case where more than one service is actually available to end users from a relevant page, any advertising revenue shall be allocated between such services on the basis of the relative amounts of the page they occupy.

(2) In each of the cases identified in paragraph (1), such revenue shall, for the avoidance of doubt, (i) include any such revenue recognized by the service, or if not

recognized by the service, by any associate, affiliate, agent or representative of such service in lieu of its being recognized by the service; (ii) include the value of any barter or other nonmonetary consideration; (iii) not be reduced by credit card commissions or similar payment process charges; and (iv) except as expressly set forth in this part, not be subject to any other deduction or set-off other than refunds to end users for licensed activity that they were unable to use due to technical faults in the licensed activity or other bona fide refunds or credits issued to end users in the ordinary course of business.

(3) In each of the cases identified in paragraph (1), such revenue shall, for the avoidance of doubt, exclude revenue derived solely in connection with services and activities other than licensed activity, provided that advertising or sponsorship revenue shall be treated as provided in paragraphs (2) and (4). By way of example, the following kinds of revenue shall be excluded: (i) revenue derived from non-music voice, content and text services; (ii) revenue derived from other non-music products and services (including search services, sponsored searches and click-through commissions); and (iii) revenue derived from music or music-related products and services that are not or do not include licensed activity.

(4) For purposes of paragraph (1), advertising or sponsorship revenue shall be reduced by the actual cost of obtaining such revenue, not to exceed 15%.

(5) Where the licensed activity is provided to end users as part of the same transaction with one or more other products or services that are not a music service engaged in licensed activity, then the revenue deemed to be recognized from end users for the service for the purpose of the definition in paragraph (1) shall be the revenue recognized from end users for the bundle less the standalone published price for end users for each of the other component(s) of the bundle; provided that, if there is no such standalone published price for a component of the bundle, then the average standalone published price for end users for the most closely comparable product or service in the U.S. shall be used or, if more than one such comparable exists, the average of such standalone prices for such comparables shall be used. In connection with such a bundle, if a record company providing sound recording rights to the service (i) recognizes revenue (in accordance with U.S. Generally Accepted Accounting Principles, and including for the avoidance of doubt barter or nonmonetary consideration) from a person or entity other than the service providing the licensed activity and (ii) such revenue is received, in the context of the transactions involved, as consideration for the ability to make interactive streams or limited downloads of sound recordings, then such revenue shall be added to the amounts expensed by the service for purposes of § 383.4(b). Where the service is the licensee, if the service provides the record company all information necessary for the record company to determine whether additional royalties are payable by the service hereunder as a result of revenue recognized from a person or entity other than the service as described in the immediately preceding sentence, then the record company shall provide such further information as necessary for the service to calculate the additional royalties and indemnify the service for such additional royalties. The sole obligation of the record company shall be to pay the licensee such additional royalties if actually payable as royalties hereunder; provided, however, that this shall not affect any

otherwise existing right or remedy of the copyright owner nor diminish the licensee's obligations to the copyright owner.

(l) *Stream* means the digital transmission of a sound recording of a musical work to an end user –

(1) to allow the end user to listen to the sound recording, while maintaining a live network connection to the transmitting service, substantially at the time of transmission, except to the extent that the sound recording remains accessible for future listening from a streaming cache reproduction;

(2) using technology that is designed such that the sound recording does not remain accessible for future listening, except to the extent that the sound recording remains accessible for future listening from a streaming cache reproduction; and

(3) that is also subject to licensing as a public performance of the musical work.

(m) *Streaming cache reproduction* means a reproduction of a sound recording of a musical work made on a computer or other receiving device by a service solely for the purpose of permitting an end user who has previously received a stream of such sound recording to play such sound recording again from local storage on such computer or other device rather than by means of a retransmission; provided that the user is only able to do so while maintaining a live network connection to the service, and such reproduction is encrypted or otherwise protected consistent with prevailing industry standards to prevent it from being played in any other manner or on any device other than the computer or other device on which it was originally made.

(n) *Subscription service* means a digital music service for which end users are required to pay a fee to access the service for defined subscription periods of 3 years or less (in contrast to, for example, a service where the basic charge to users is a payment per download or per play), whether such payment is made for access to the service on a standalone basis or as part of a bundle with one or more other products or services, and including any use of such a service on a trial basis without charge as described in section 383.5(b).

§ 383.3 Calculation of Royalty Payments in General.

(a) *Applicable Royalty*. Licensees that make or authorize licensed activity pursuant to 17 U.S.C. 115 shall pay royalties therefor that are calculated as provided in this § 383.3, subject to the minimum royalties and subscriber-based royalty floors for specific types of services provided in § 383.4, except as provided for certain promotional uses in § 383.5.

(b) *Rate Calculation Methodology*. Royalty payments for licensed activity shall be calculated as provided in this subsection (b). If a service includes different offerings, royalties must be separately calculated with respect to each such offering. Uses subject to the promotional royalty rate shall be excluded from the calculation of royalties due, as further described in this § 383.3 and the following § 383.4.

Step 1: Calculate the All-In Royalty for the Service. For each accounting period, the all-in royalty for each offering of the service is the greater of (i) the applicable percentage of service revenue as set forth in subsection (c) (excluding any service revenue derived solely from licensed activity uses subject to the promotional royalty rate), and (ii) the minimum specified in § 383.4 for the offering involved.

Step 2: Subtract Applicable Performance Royalties. From the amount determined in step 1, for each offering of the service, subtract the total amount of royalties for public performance of musical works that has been or will be expensed by the service pursuant to public performance licenses in connection with uses of musical works through such offering during the accounting period that constitute licensed activity (other than licensed activity subject to the promotional royalty rate). While this amount may be the total of the service's payments for that offering for the accounting period under its agreements with performing rights societies as defined in 17 U.S.C. 101, it will be less than the total of such public performance payments if the service is also engaging in public performance of musical works that does not constitute licensed activity. In the latter case, the amount to be subtracted for public performance payments shall be the amount of such payments allocable to licensed activity uses (other than promotional royalty rate uses) through the relevant offering, as determined in relation to all uses of musical works for which the public performance payments are made for the accounting period. Such allocation shall be made on the basis of plays of musical works or, where per-play information is unavailable due to bona fide technical limitations as described in step 4, using the same alternative methodology as provided in step 4.

Step 3: Determine the Payable Royalty Pool. This is the amount payable for the reproduction and distribution of all musical works used by the service by virtue of its licensed activity for a particular offering during the accounting period. This amount is the greater of (i) the result determined in step 2, and (ii) the subscriber-based royalty floor resulting from the calculations described in § 383.4.

Step 4: Calculate the Per-Work Royalty Allocation for Each Relevant Work. This is the amount payable for the reproduction and distribution of each musical work used by the service by virtue of its licensed activity through a particular offering during the accounting period. To determine this amount, the result determined in step 3 must be allocated to each musical work used through the offering. The allocation shall be accomplished by dividing the payable royalty pool determined in step 3 for such offering by the total number of plays of all musical works through such offering during the accounting period (other than promotional royalty rate plays) to yield a per-play allocation, and multiplying that result by the number of plays of each musical work (other than promotional royalty rate plays) through the offering during the accounting period. For purposes of determining the per-work royalty allocation in all calculations under this step 4 only (i.e., after the payable royalty pool as been determined), for sound recordings of musical works with a playing time of over 5 minutes, each play on or after October 1, 2010 shall be counted as provided in subsection (d) below. Notwithstanding the foregoing, if the service is not capable of tracking play information due to bona fide limitations of the available technology for services of that nature or of devices useable with the service, the per-work royalty allocation may instead be accomplished in a manner consistent with the methodology used by the service for making royalty payment allocations for the use of individual sound recordings.

(c) *Percentage of Service Revenue*. The percentage of service revenue applicable under subsection (b) is 10.5%, except that such percentage shall be discounted by 2% (i.e., to 8.5%) in the case of licensed activity occurring on or before December 31, 2007.

(d) *Overtime Adjustment.* For licensed activity on or after October 1, 2010, for purposes of the calculations in step 4 only, for sound recordings of musical works with a playing time of over 5 minutes, adjust the number of plays as follows:

5:01 to 6:00 minutes	Each play = 1.2 plays
6:01 to 7:00 minutes	Each play = 1.4 plays
7:01 to 8:00 minutes	Each play = 1.6 plays
8:01 to 9:00 minutes	Each play = 1.8 plays
9:01 to 10:00 minutes	Each play = 2.0 plays

(For playing times of greater than 10 minutes, continue to add .2 for each additional minute or fraction thereof.)

(e) *Accounting*. The calculations required by subsection (b) shall be made in good faith and on the basis of the best knowledge, information, and belief of the licensee at the time payment is due, and subject to the additional accounting and certification requirements of 17 U.S.C. 115(c)(5) and § 201.19. Without limitation, a licensee's statements of account shall set forth each step of its calculations with sufficient information to allow the copyright owner to assess the accuracy and manner in which the licensee determined the payable royalty pool and per-play allocations (including information sufficient to demonstrate whether and how a minimum royalty or subscriber-based royalty floor pursuant to § 383.4 does or does not apply) and, for each offering reported, also indicate the type of licensed activity involved and the number of plays of each musical work (including an indication of any overtime adjustment applied) that is the basis of the per-work royalty allocation being paid.

§ 383.4 Minimum Royalty Rates and Subscriber-Based Royalty Floors for Specific Types of Services.

(a) *In General.* The following minimum royalty rates and subscriber-based royalty floors shall apply to the following types of licensed activity:

(1) *Standalone Non-Portable Subscription – Streaming Only*. Except as provided in paragraph (4), in the case of a subscription service through which an end user can listen to sound recordings only in the form of interactive streams and only from a non-portable device to which such streams are originally transmitted while the device has a live network connection, the minimum for use in step 1 of § 383.3(b) is the lesser of subminimum II as described in subsection (c) for the accounting period and the aggregate amount of 50 cents per subscriber per month. The subscriber-based royalty floor for use in step 3 of § 383.3(b) is the aggregate amount of 15 cents per subscriber per month.

(2) *Standalone Non-Portable Subscription – Mixed.* Except as provided in paragraph (4), in the case of a subscription service through which an end user can listen to sound recordings either in the form of interactive streams or limited downloads but only from a non-portable device to which such streams or downloads are originally transmitted, the minimum for use in step 1 of § 383.3(b) is the lesser of the subminimum I as described in subsection (b) for the accounting period and the aggregate amount of 50 cents per subscriber per month. The subscriber-based royalty floor for use in step 3 of § 383.3(b) is the aggregate amount of 30 cents per subscriber per month.

(3) *Standalone Portable Subscription Services*. Except as provided in paragraph (4), in the case of a subscription service through which an end user can listen to sound recordings in the form of interactive streams or limited downloads from a portable device, the minimum for use in step 1 of § 383.3(b) is the lesser of subminimum I as described in subsection (b) for the accounting period and the aggregate amount of 80 cents per subscriber per month. The subscriber-based royalty floor for use in step 3 of § 383.3(b) is the aggregate amount of 50 cents per subscriber per month.

(4) *Bundled Subscription Services*. In the case of a subscription service made available to end users with one or more other products or services as part of a single transaction without pricing for the subscription service separate from the product(s) or service(s) with which it is made available (e.g., a case in which a user can buy a portable device and one-year access to a subscription service for a single price), the minimum for use in step 1 of § 383.3(b) is subminimum I as described in subsection (b) for the accounting period. The subscriber-based royalty floor for use in step 3 of § 383.3(b) is the aggregate amount of 25 cents per month for each end user who has made at least one play of a licensed work during such month (each such end user to be considered an "active subscriber").

(5) *Free Nonsubscription/Ad-Supported Services*. In the case of a service offering licensed activity free of any charge to the end user, the minimum for use in step 1 of § 383.3(b) is subminimum II described in subsection (c) for the accounting period. There is no subscriber-based royalty floor for use in step 3 of § 383.3(b).

(b) *Computation of Subminimum I.* For purposes of subsection (a)(2), (3) and (4), and with reference to § 383.2(k)(5) if applicable, subminimum I for an accounting period means the aggregate of the following with respect to all sound recordings of musical works used in the relevant offering of the service during the accounting period –

(1) In cases in which a record company is the licensee under 17 U.S.C. 115 and a third-party service has obtained from the record company the rights to make interactive streams or limited downloads of a sound recording together with the right to reproduce and distribute the musical work embodied therein, 17.36% of the total amount expensed by the service in accordance with U.S. Generally Accepted Accounting Principles, which for the avoidance of doubt shall include the value of any barter or other nonmonetary consideration provided by the service, for such rights for the accounting period, except

that for licensed activity occurring on or before December 31, 2007, subminimum I for an accounting period shall be 14.53% of the amount expensed by the service for such rights for the accounting period.

(2) In cases in which the relevant service is the licensee under 17 U.S.C. 115 and the relevant service has obtained from a third-party record company the rights to make interactive streams or limited downloads of a sound recording without the right to reproduce and distribute the musical work embodied therein, 21% of the total amount expensed by the service in accordance with U.S. Generally Accepted Accounting Principles, which for the avoidance of doubt shall include the value of any barter or other nonmonetary consideration provided by the service, for such sound recording rights for the accounting period, except that for licensed activity occurring on or before December 31, 2007, subminimum I for an accounting period shall be 17% of the amount expensed by the service for such sound recording rights for the accounting period.

(c) *Computation of Subminimum II.* For purposes of subsection (a)(1) and (5), subminimum II for an accounting period means the aggregate of the following with respect to all sound recordings of musical works used by the relevant service during the accounting period –

(1) In cases in which a record company is the licensee under 17 U.S.C. 115 and a third-party service has obtained from the record company the rights to make interactive streams or limited downloads of a sound recording together with the right to reproduce and distribute the musical work embodied therein, 18% of the total amount expensed by the service in accordance with U.S. Generally Accepted Accounting Principles, which for the avoidance of doubt shall include the value of any barter or other nonmonetary consideration provided by the service, for such rights for the accounting period, except that for licensed activity occurring on or before December 31, 2007, subminimum II for an accounting period shall be 14.53% of the amount expensed by the service for such rights for the accounting period.

(2) In cases in which the relevant service is the licensee under 17 U.S.C. 115 and the relevant service has obtained from a third-party record company the rights to make interactive streams or limited downloads of a sound recording without the right to reproduce and distribute the musical work embodied therein, 22% of the total amount expensed by the service in accordance with U.S. Generally Accepted Accounting Principles, which for the avoidance of doubt shall include the value of any barter or other nonmonetary consideration provided by the service, for such sound recording rights for the accounting period, except that for licensed activity occurring on or before December 31, 2007, subminimum II for an accounting period shall be 17% of the amount expensed by the service for such sound recording rights for the accounting period.

(d) *Computation of Subscriber-Based Royalty Rates.* For purposes of subsection (a), to determine the minimum or subscriber-based royalty floor, as applicable to any particular offering, the service shall for the relevant offering calculate its total number of subscriber-months for the accounting period, taking into account all end users who were subscribers for complete calendar months, prorating in the case of end users who were subscribers for only part of a calendar month, and deducting on a prorated basis for end users covered by a free trial period subject to the promotional royalty rate as described in § 383.5(b)(2), except that in the case of a bundled subscription service, subscriber-months shall instead be determined with respect to active subscribers as defined in subsection (a)(4). The product of the total number of subscriber-months for the accounting period and the specified number of cents per subscriber (or active subscriber, as the case may be) shall be used as the subscriber-based component of the minimum or subscriber-based royalty floor, as applicable, for the accounting period.

§ 383.5 Promotional Royalty Rate.

(a) General Provisions.

(1) This section establishes a royalty rate of zero in the case of certain promotional interactive streaming activities, and of certain promotional limited downloads offered in the context of a free trial period for a digital music subscription service under a license pursuant to 17 U.S.C. 115. Subject to the requirements of 17 U.S.C. 115 and the additional provisions of subsections (b) through (e), the promotional royalty rate shall apply to a musical work when a record company transmits or authorizes the transmission of interactive streams or limited downloads of a sound recording that embodies such musical work, only if –

(i) the primary purpose of the record company in making or authorizing the interactive streams or limited downloads is to promote the sale or other paid use of sound recordings by the relevant artist, including such sound recording, through established retail channels or the paid use of one or more established retail music services through which the sound recording is available, and not to promote any other good or service;

(ii) either –

(A) the sound recording (or a different version of the sound recording embodying the same musical work) is being lawfully distributed and offered to consumers through the established retail channels or services described in subparagraph (i);or

(B) in the case of a sound recording of a musical work being prepared for commercial release but not yet released, the record company has a good faith intention of lawfully distributing and offering to consumers the sound recording (or a different version of the sound recording embodying the same musical work) through the established retail channels or services described in subparagraph (i) within 90 days after the commencement of the first promotional use authorized under this section (and in fact does so, unless it can demonstrate that notwithstanding its bona fide intention, it unexpectedly did not meet the scheduled release date);

(iii) in connection with authorizing the promotional interactive streams or limited downloads, the record company has obtained from the service it authorizes a written representation that –

(A) in the case of a promotional use commencing on or after October 1, 2010, except interactive streaming subject to subsection (d), the service agrees to maintain for a period of no less than 5 years from the conclusion of the promotional activity complete and accurate records of the relevant authorization and dates on which the promotion was conducted, and identifying each sound recording of a musical work made available through the promotion, the licensed activity involved, and the number of plays of such recording;

(B) the service is in all material respects operating with appropriate license authority with respect to the musical works it is using for promotional and other purposes; and

(C) the representation is signed by a person authorized to make the representation on behalf of the service;

(iv) upon receipt by the record company of written notice from the copyright owner of a musical work or agent of the copyright owner stating in good faith that a particular service is in a material manner operating without appropriate license authority from such copyright owner, the record company shall within 5 business days withdraw by written notice its authorization of such uses of such copyright owner's musical works under the promotional royalty rate by that service;

(v) the interactive streams or limited downloads are offered free of any charge to the end user and, except in the case of interactive streaming subject to subsection (d) or in the case of a free trial period for a digital music subscription service, no more than 5 sound recordings at a time are streamed in response to any individual request of an end user;

(vi) the interactive streams and limited downloads are offered in a manner such that the user is at the same time (e.g., on the same web page) presented with a purchase opportunity for the relevant sound recording or an opportunity to subscribe to a paid service offering the sound recording, or a link to such a purchase or subscription opportunity, except –

(A) in the case of interactive streaming of a sound recording being prepared for commercial release but not yet released, certain mobile applications or other circumstances in which the foregoing is impracticable in view of the current state of the relevant technology; and

(B) in the case of a free trial period for a digital music subscription service, if end users are periodically offered an opportunity to subscribe to the service during such free trial period; and

(vii) the interactive streams and limited downloads are not provided in a manner that is likely to cause mistake, to confuse or to deceive, reasonable end users as to the endorsement or association of the author of the musical work with any product, service or activity other than the sale or paid use of sound recordings or paid use of a music service through which sound recordings are available. Without limiting the foregoing, upon receipt of written notice from the copyright owner of a musical work or agent of the copyright owner stating in good faith that a particular use of such work under this section violates the limitation set forth in this subparagraph (vii), the record company shall promptly cease such use of that work, and within 5 business days withdraw by written notice its authorization of such use by all relevant third parties it has authorized under this section.

(2) To rely upon the promotional royalty rate, a record company making or authorizing interactive streams or limited downloads shall keep complete and accurate contemporaneous written records of such uses, including the sound recordings and musical works involved, the artists, the release dates of the sound recordings, a brief statement of the promotional activities authorized, the identity of the service or services where each promotion is authorized (including the internet address if applicable), the beginning and end date of each period of promotional activity authorized, and the representation required by paragraph (1)(iii); provided that, in the case of trial subscription uses, such records shall instead consist of the contractual terms that bear upon promotional uses by the particular digital music subscription services it authorizes; and further provided that, if the record company itself is conducting the promotion, it shall also maintain any additional records described in paragraph (1)(iii)(A). The records required by this paragraph (2) shall be maintained for no less time than the record company maintains records of usage for royalty-bearing uses involving the same type of licensed activity in the ordinary course of business, but in no event for less than 5 years from the conclusion of the promotional activity to which they pertain. If the copyright owner of a musical work or its agent requests a copy of the information to be maintained under this paragraph (2) with respect to a specific promotion or relating to a particular sound recording of a musical work, the record company shall provide complete and accurate documentation within 10 business days, except for any information required under paragraph (1)(iii)(a), which shall be provided within 20 business days, and provided that if the copyright owner or agent requests information concerning a large volume of promotions or sound recordings, the record company shall have a reasonable time, in view of the amount of information requested, to respond to any request of such copyright owner or agent. If the record company does not provide required information within the required time, and upon receipt of written notice citing such failure does not provide such information within a further 10 business days, the uses will be considered not to be subject to the promotional royalty rate and the record company (but not any third-party service it has authorized) shall be liable for any payment due for such uses; provided, however, that all rights and remedies of the copyright owner with respect to unauthorized uses shall be preserved.

(3) If the copyright owner of a musical work or its agent requests a copy of the information to be maintained under paragraph (1)(iii)(A) by a service authorized by a record company with respect to a specific promotion, the service shall provide complete and accurate documentation within 20 business days, provided that if the copyright owner or agent requests information concerning a large volume of promotions or sound recordings, the service shall have a reasonable time, in view of the amount of information requested, to respond to any request of such copyright owner or agent. If the service does not provide required information within the required time, and upon receipt of written notice citing such failure does not provide such information within a further 10 business days, the uses will be considered not to be subject to the promotional royalty rate and the service (but not the record company) will be liable for any payment due for such uses; provided, however, that all rights and remedies of the copyright owner with respect to unauthorized uses shall be preserved.

(4) The promotional royalty rate is exclusively for audio-only interactive streaming and limited downloads of musical works subject to licensing under 17 U.S.C. 115. The promotional royalty rate does not apply to any other use under 17 U.S.C. 115; nor does it apply to public performances, audiovisual works, lyrics or other uses outside the scope of 17 U.S.C. 115. Without limitation, uses subject to licensing under 17 U.S.C. 115 that do not qualify for the promotional royalty rate (including without limitation interactive streaming or limited downloads of a musical work beyond the time limitations applicable to the promotional royalty rate) require payment of applicable royalties. This section is nonprecedential in nature and based on an understanding of industry practices and market conditions at the time of its development, among other things. The terms of this section shall be subject to *de novo* review and consideration (or elimination altogether) in future proceedings before the Copyright Royalty Judges. This section shall not be cited or relied upon in a government proceeding or otherwise for the purpose of establishing the rate payable for interactive streaming or limited download uses not subject to the promotional royalty rate or establishing a lower or zero rate, or increasing the rate, for any other type of use. Nothing in this section shall be interpreted or construed in such a manner as to nullify or diminish any limitation, requirement or obligation of 17 U.S.C. 115 or other protection for musical works afforded by the Copyright Act, 17 U.S.C. 101 *et seq*. For the avoidance of doubt, however, except as provided in subsection (a), statements of account under 17 U.S.C. 115 need not reflect interactive streams or limited downloads subject to the promotional royalty rate.

(b) <u>Interactive Streaming and Limited Downloads of Full-Length Musical Works Through Third-Party Services</u>. In addition to those of subsection (a), the provisions of this subsection (b) apply to interactive streaming, and limited downloads (in the context of a free trial period for a digital music subscription service), authorized by record companies under the promotional royalty rate through third-party services (including websites) that is not subject to subsection (c) or (d). Such interactive streams and limited downloads may be made or authorized by a record company under the promotional royalty rate only if –

(1) no cash, other monetary payment, barter or other consideration for making or authorizing the relevant interactive streams or limited downloads is received by the record company, its parent company, any entity owned in whole or in part by or under

common ownership with the record company, or any other person or entity acting on behalf of or in lieu of the record company, except for in-kind promotional consideration used to promote the sale or paid use of sound recordings or the paid use of music services through which sound recordings are available;

(2) in the case of interactive streaming and limited downloads offered in the context of a free trial period for a digital music subscription service, the free trial period does not exceed 30 consecutive days per subscriber per two-year period; and

(3) in contexts other than a free trial period for a digital music subscription service, interactive streaming subject to this subsection (b) of a particular sound recording is authorized by the record company on no more than 60 days total for all services (i.e., interactive streaming under this subsection (b) of a particular sound recording may be authorized on no more than a total of 60 days, which need not be consecutive, and on any one such day, interactive streams may be offered on one or more services); provided, however, that an additional 60 days shall be available each time the sound recording is re-released by the record company in a remastered form or as part of a compilation with a different set of sound recordings than the original release or any prior compilation including such sound recording.

In the event that a record company authorizes promotional uses in excess of the time limitations of this subsection (b), the record company, and not the third-party service it has authorized, shall be liable for any payment due for such uses; provided, however, that all rights and remedies of the copyright owner with respect to unauthorized uses shall be preserved. In the event that a third-party service exceeds the scope of any authorization by a record company, the service, and not the record company, shall be liable for any payment due for such uses; provided, however, that all rights and remedies of the copyright owner with respect to unauthorized uses shall be preserved.

(c) Interactive Streaming of Full-Length Musical Works Through Record Company and Artist Services. In addition to those of subsection (a), the provisions of this subsection (c) apply to interactive streaming conducted or authorized by record companies under the promotional royalty rate through a service (e.g., a website) directly owned or operated by the record company, or directly owned or operated by a recording artist under the authorization of the record company, and that is not subject to subsection (d). For the avoidance of doubt and without limitation, an artist page or site on a third-party service (e.g., a social networking service) shall not be considered a service operated by the record company or artist. Such interactive streams may be made or authorized by a record company under the promotional royalty rate only if –

(1) the interactive streaming subject to this subsection (c) of a particular sound recording is offered or authorized by the record company on no more than 90 days total for all services (i.e., interactive streaming under this subsection (c) of a particular sound recording may be authorized on no more than a total of 90 days, which need not be consecutive, and on any one such day, interactive streams may be offered on one or more services operated by the record company or artist, subject to the provisions of paragraph

(2)); provided, however, that an additional 90 days shall be available each time the sound recording is re-released by the record company in a remastered form or as part of a compilation with a different set of sound recordings than prior compilations that include that sound recording;

(2) in the case of interactive streaming through a service devoted to one featured artist, the interactive streams subject to this subsection (c) of a particular sound recording are made or authorized by the record company on no more than one official artist site per artist and are recordings of that artist; and

(3) in the case of interactive streaming through a service that is not limited to a single featured artist, all interactive streaming on such service (whether eligible for the promotional royalty rate or not) is limited to sound recordings of a single record company and its affiliates and the service would not reasonably be considered to be a meaningful substitute for a paid music service.

(d) Interactive Streaming of Clips. In addition to those of subsection (a), the provisions of this subsection (d) apply to interactive streaming conducted or authorized by record companies under the promotional royalty rate of segments of sound recordings of musical works with a playing time that does not exceed the greater of (i) 30 seconds, or (ii) 10% of the playing time of the complete sound recording, but in no event in excess of 60 seconds. Such interactive streams may be made or authorized by a record company under the promotional royalty rate without any of the temporal limitations set forth in subsections (b) and (c) (but subject to the other conditions of subsections (b) and (c), as applicable). For clarity, this subsection (d) is strictly limited to the uses described herein and shall not be construed as permitting the creation or use of an excerpt of a musical work in violation of 17 U.S.C. 106(2) or 115(a)(2) or any other right of a musical work owner; nor may it be cited or relied upon in any judicial or government proceeding or otherwise for the purpose of seeking to establish that the creation or use of an excerpt of a musical work outside of the scope of this subsection (d) does not require a license from the copyright owner or payment of royalties, or does not violate 17 U.S.C. 106(2) or 115(a)(2) or any other right of a musical work owner.

(e) Activities Prior to the Publication Date. Notwithstanding subsections (a) through (d), in the case of licensed activity prior to the publication date, the promotional royalty rate shall apply to promotional interactive streams, and to limited downloads offered in the context of a free trial period for a digital music subscription service, that in either case are authorized by the relevant record company, if the condition set forth in subsection (a)(1)(i) is satisfied, subject only to the additional condition in subsection (b)(1), and provided that a free trial period for a digital music subscription service authorized by the relevant record company shall be considered to be of 30 days' duration. In the event of a dispute concerning the eligibility of licensed activity prior to the publication date for the promotional royalty rate, a service asserting that its licensed activity is eligible for the promotional royalty rate shall bear the burden of proving that its licensed activity was authorized by the relevant record company and shall certify that the condition in subsection (b)(1) was satisfied.

§ 383.6 Timing of Payments.

Payment for any accounting period for which payment otherwise would be due more than 180 days after the publication date shall be due as otherwise provided under 17 U.S.C. 115 and its implementing regulations. Payment for any prior accounting period shall be due 180 days after the publication date.

§ 383.7 Reproduction and Distribution Rights Covered.

A compulsory license under 17 U.S.C. 115 extends to all reproduction and distribution rights that may be necessary for the provision of the licensed activity, solely for the purpose of providing such licensed activity (and no other purpose).

§ 383.8 Effect of Rates.

In any future proceeding under 17 U.S.C. 115(c)(3)(C) and (D), the royalty rates payable for a compulsory license shall be established de novo, and no precedential effect shall be given to the royalty rate payable under this part.

EXHIBIT C

Confidential Information Non-Disclosure Agreement

This Agreement is entered into this __ day of _____, 2008 by and between National Music Publishers' Association, Inc., the Songwriters Guild of America and the Nashville Songwriters Association International (the "Copyright Owners"), the Recording Industry Association of America ("RIAA"), and the Digital Media Association ("DiMA"), (collectively "the Parties") and ___________________________ ("Recipient").

WHEREAS the Parties intend to or have entered into a settlement agreement (the "Settlement") relating to the proceeding before the Copyright Royalty Judges ("CRJs") captioned *Matter of Mechanical & Digital Phonorecord Delivery Rate Adjustment* Proceedings, Docket No. 2006-3 CRB DPRA (the "Proceeding"), the terms of which the Parties have agreed are and should remain confidential and proprietary to the Parties (hereinafter "Confidential Information") in order to facilitate and achieve settlement of certain issues in the Proceeding; and

WHEREAS the Recipient acknowledges that any disclosure of the Confidential Information might cause the termination of the Settlement and Recipient is willing to receive disclosure of the Confidential Information pursuant to the terms of this Agreement for the purpose of effectuating the terms of the Settlement;

NOW THEREFORE, in consideration of Recipient's access to Confidential Information under this Agreement and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Confidentiality: Except as may be required by law, until the time for filing of the petition contemplated by the Settlement (or indefinitely if this Agreement is terminated before the filing of such petition), Recipient shall maintain as confidential and shall not disclose any terms of the Settlement, in whole or in part, directly or indirectly, to any other person or entity.

2. Protection of Secrecy: Recipient shall use at least the same degree of care as it uses with respect to its own confidential information of a similar nature, but in no event less than reasonable care, to protect the terms of the Settlement from unauthorized disclosure.

3. Term and Termination: The obligations of this Agreement shall be continuing until the Confidential Information disclosed to Recipient is no longer confidential through no fault of Recipient.

4. Survival of Rights and Obligations: This Agreement shall be binding upon, inure to the benefit of, and be enforceable by the Parties.

IN WITNESS WHEREOF, Recipient has executed this Agreement or acknowledged by electronic mail that it has agreed to its terms effective as of the date first written above.

Signed:

____

GEO 50

NOT YET SCHEDULED FOR ORAL ARGUMENT

United States Court of Appeals for the District of Columbia Circuit

No. 19-1028
Consolidated with 19-1058, 19-1059, 19-1060, 19-1061 and 19-1062

GEORGE JOHNSON,
Appellant,

v.

COPYRIGHT ROYALTY BOARD and LIBRARIAN OF CONGRESS,
Appellees.

NASHVILLE SONGWRITERS ASSOCIATION INTERNATIONAL; PANDORA MEDIA, LLC; GOOGLE LLC; SPOTIFY USA INC.; NATIONAL MUSIC PUBLISHERS' ASSOCIATION; and AMAZON DIGITAL SERVICES LLC,
Appellants/Intervenors.

On Appeal from a Final Determination of the Library of Congress, Copyright Royalty Board in 37 CFR 385 (Docket No. 16-CRB-0003-PR (2018-2022))

JOINT APPENDIX
PUBLIC APPENDIX – SEALED MATERIAL IN SEPARATE SUPPLEMENT

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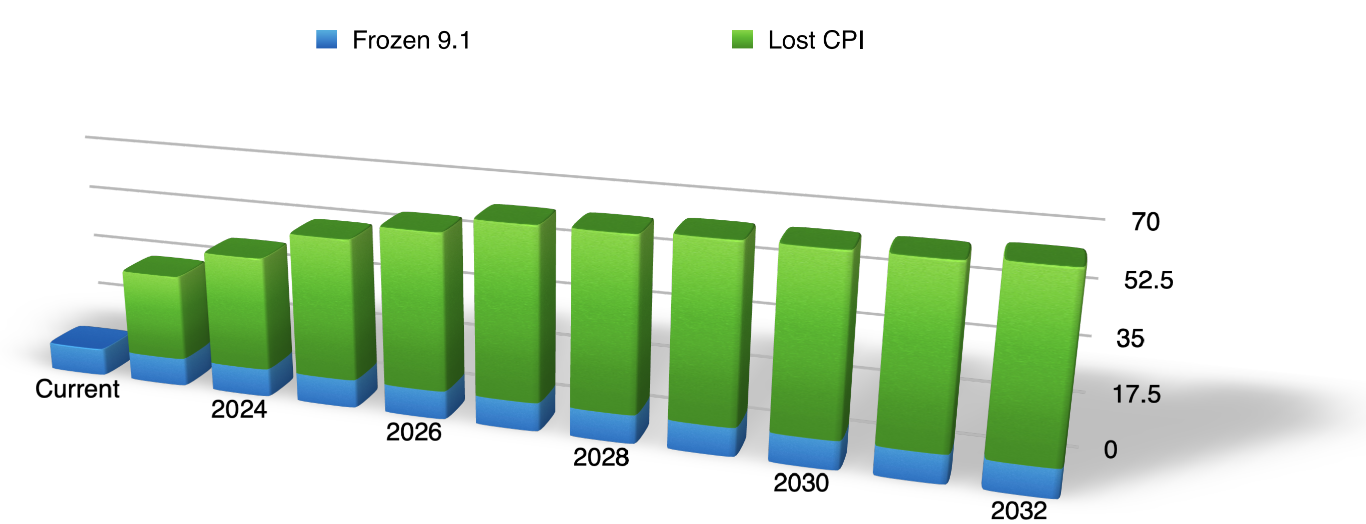
GEO'S 9.1 CENT INFLATION ADJUSTMENT OVER 5 YEARS (10)

	Current	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
Frozen 9.1	9.1	9.1	9.1	9.1	9.1	9.1	9.1	9.1	9.1	9.1	9.1
CPI Increase	0	28	37	46	51	56	56	57	57	57	58



Proof of Delivery

I hereby certify that on Tuesday, November 09, 2021, I provided a true and correct copy of the GEO'S CORRECTED Phonorecords IV Exhibits GEO 1 through 51 to the following:

Amazon.com Services LLC, represented by Joshua D Branson, served via ESERVICE at jbranson@kellogghansen.com

Copyright Owners, represented by Benjamin K Semel, served via ESERVICE at Bsemel@pryorcashman.com

Pandora Media, LLC, represented by Benjamin E. Marks, served via ESERVICE at benjamin.marks@weil.com

Powell, David, represented by David Powell, served via ESERVICE at davidpowell008@yahoo.com

Spotify USA Inc., represented by Joseph Wetzel, served via ESERVICE at joe.wetzel@lw.com

Apple Inc., represented by Mary C Mazzello, served via ESERVICE at mary.mazzello@kirkland.com

Google LLC, represented by Gary R Greenstein, served via ESERVICE at ggreenstein@wsgr.com

Joint Record Company Participants, represented by Susan Chertkof, served via ESERVICE at susan.chertkof@riaa.com

Zisk, Brian, represented by Brian Zisk, served via ESERVICE at brianzisk@gmail.com

Signed: /s/ George D Johnson